Faceting the Future: The Need for and Proposal of the Adoption of a Kimberley Process-Styled Legitimacy Certification System for the Global Gemstone Market

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I - INTRODUCTION

Diamonds, so the song goes, are a girl’s best friend. According to various advertisement campaigns, diamonds are also a unique symbol of emotion because they are “forever.” It is certainly difficult to challenge these assertions as to the beauty of a diamond. However, these societal perceptions often overshadow the importance and history of other gemstones. The Bible refers several times to the value of rubies.¹ Throughout history, gemstones of all varieties have captivated leaders and societies across the world, resulting in the creation of incredible works of art involving these stones and also in bloody fights to control them.² Although a typical gemstone will not be as heavily faceted as a diamond, these facets have historically framed the laws, societal beliefs, and economic prowess of nations.³

And so it is perhaps not surprising that, when the world became concerned over sources of funding for the debilitating conflicts that have prominently engulfed several African states, it focused on diamonds. In the aftermath of revelations that rough diamonds were being used to fund all sides to these conflicts – particularly those in the Democratic Republic of the Congo, Angola and Sierra Leone – the term “conflict diamond” emerged and soon became a slogan for the non-governmental organizations and other activists that sought to stop the trade in these stones. Out of this campaign

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2 See generally id.; Frederick Ward, Emeralds (2001).
3 See id.
emerged the Kimberley Process Certification Scheme for Rough Diamonds (“Kimberley Process”), a system which controls the diamond markets in “participant” states and which offers a measure of confidence for states and consumers alike in regards to the source of diamonds on the legitimate market. Still, the public was so enthralled and repulsed at the idea of “conflict diamonds” that movies on the subject were highly successful. And yet, the correlation between all other gemstones and illicit activities such as funding brutal rebel or governmental forces, financing terrorism, and inducing human trafficking has largely been left out of the legal and popular discourse.

The goal of this article is to address the need for a Kimberly Process-styled system in the gemstone industry and to propose a framework for such a system, using the strengths and weaknesses of the Kimberley Process and the unique issues facing the gemstone trade. Part II of this article provides a basic history of the Kimberley Process and discusses the legal implications of the Kimberley Process for “participant” states. Part III discusses the current state of the gemstone industry. It provides background on the industry as a whole and sets out a number of gemstones that, in the author’s view, are gemstones that should be subject to a Kimberley Process-styled system. These gemstones range from extremely rare and valuable to common stones with low prices because the author believes that the issues raised in this article are of vital importance to both the high-end and low-end consumer. Part III further provides a short discussion of the producer states of these gemstones, including documented incidences of illicit trade in gemstones.

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these stones, ties to illegitimate entities,\(^5\) and domestic legal considerations. Part IV then proposes a Kimberley Process-styled system, generally referred to as the International Gemstone Certification System, to combat the issues raised in Part III, thereby bringing benefits to all portions of the gemstone and jewelry industry, as well as producer states and their citizens. Finally, Part V concludes the article with a summary of the reasons that an International Gemstone Certification System is needed, the proposed terms of such a system, and the benefits it would bring.

II – THE KIMBERLEY PROCESS CERTIFICATION SCHEME FOR ROUGH DIAMONDS

A. BACKGROUND

1. THE DIAMOND MARKET

The global diamond market is very well organized, standing in direct contrast to the global gemstone market discussed below.\(^6\) The bulk of the global diamond market is controlled by DeBeers, a South African entity founded by Cecil Rhodes, although other entities are beginning to enter into the global diamond market with greater force.\(^7\) Still, the global diamond market is essentially controlled by only a few entities.\(^8\) Even in instances where a mine exists outside the structure of these entities, it is highly unlikely

\(^5\) For the purposes of this article, the author will use the term “illegitimate entities” to refer to the combination of rebel groups or governmental groups known to commit human rights abuses, terrorist groups, and human trafficking organizations.


\(^7\) Id.

\(^8\) Id.
that a diamond will complete its journey from the mine to a consumer without becoming involved in one of these entities.9

The global diamond market operates primarily out of several trading centers, the largest of which is located in Antwerp, Belgium.10 Because of the limited number of entities involved in the legitimate global diamond industry, it is possible for diamond prices to be kept at or near an amount determined by these entities.11 Thus, the global diamond market has a discernable structure within which it functions.

2. **ATTENTION-GETTING CONFLICTS**

Civil war gripped Angola from 1975 until 2002.12 The primary participants in this war were the National Union for the Total Independence of Angola (“UNITA”) and the government of Angola, which sought to stave off the threats posed by UNITA.13 Although there was a chance for a peaceful settlement of the civil war through national elections in 1992, UNITA’s loss at the polls resulted in a continuation of the war for another ten years.14 It was during this ten year period that the issue of UNITA’s using conflict diamonds to finance its activities first came to light and became one of several driving forces behind the Kimberley Process’ creation.15

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9 Id.
10 Id.
11 Id.
    factbook/geos/ao.html (last visited May 6, 2008).
13 Id.
14 Id.
15 Id.; see also CONFLICT DIAMONDS: POSSIBILITIES FOR THE IDENTIFICATION, CERTIFICATION AND
    CONTROL OF DIAMONDS, GLOBAL WITNESS (2000).
The primary years of civil war in the Democratic Republic of the Congo ("DRC") were from 1997 to 2002, although issues between the parties remain and there has yet to be a full and complete surrender by members of rebel groups. The brutality of the war in the DRC brought the world spotlight to its sources of funding and duration, which rapidly focused on the issue of conflict diamonds.

Sierra Leone was ravaged by civil war from 1991 to 2002. During this time, the issue of conflict diamonds being used to fund the fighting in Sierra Leone became particularly prominent.

3. INTERNATIONAL RESPONSES TO CONFLICT DIAMONDS

In 2000, the British non-governmental organization Global Witness released a report entitled “Conflict Diamonds,” and, along with it, raised the issue of conflict diamonds to an unprecedented place in both the diamond consumer and industry sectors. Non-governmental organizations rapidly seized upon this issue and began advertisement campaigns that were aimed at undermining the confidence which diamond

22 Id.
consumers and owners had regarding the humanitarian costs of their diamonds.\textsuperscript{23} At the same time, governments and international actors began to scrutinize the issue of illicit diamond trading more carefully.\textsuperscript{24} This heightened awareness of conflict diamonds resulted in resolutions by both the United Nations General Assembly and the United Nations Security Council; these resolutions condemned the practice of using diamonds illicitly for the perpetuation and funding of conflict and urged the international community to combat the issue.\textsuperscript{25}

Representatives of major components of the diamond industry, interested states and non-governmental organizations first met in Kimberley, South Africa in 2000 to address the mounting pressures on the industry regarding conflict diamonds.\textsuperscript{26} Between early 2002 and November, 2002, this group worked together to create a legal document which would address the issue of conflict diamonds through a regulatory scheme.\textsuperscript{27}

The ultimate result of these meetings was the Kimberley Process Certification Scheme, which was agreed to by the diamond industry but could only be signed by willing states that completed an application process demonstrating their intent and legal ability to adhere to the terms of the Kimberley Process. As of the time of writing, there are currently 74 states that have bound themselves to the terms of the Kimberley Process.\textsuperscript{28}

In order to allow participants to meet the requirements of membership in the Kimberley

\textsuperscript{24} See NICOLAS COOK, DIAMONDS AND CONFLICT: POLICY PROPOSALS AND BACKGROUND, CONGRESSIONAL RESEARCH SERVICE (2001).
\textsuperscript{25} See UN S.C. Res. 1373; UN G.A. Res. 55/56.
\textsuperscript{27} See id.
\textsuperscript{28} Id. The number of participants in the Kimberley Process should not be confused with the number of states that are bound to the terms of the Kimberley Process; technically, the European Community is a member, however all of its constituent member states are regarded as separate participants in the Kimberley Process. Id.
Process, a tolerance period of May 31, 2003 was established as the last date by which would-be participant states could submit documentation of their compliance.\(^\text{29}\) Due to concerns among states involved in the negotiation process for the Kimberley Process, a waiver was sought and received from the World Trade Organization (“WTO”) in 2002; this waiver was reissued in 2006.\(^\text{30}\) The WTO waiver allows states to become participants in the Kimberley Process without fear of being complained about to the WTO’s dispute settlement body\(^\text{31}\) unless the specific complaint is that the domestic legislation enacted by a particular Kimberley Process participant and WTO member as a result of the Kimberley Process is outside the scope allowed by the waiver and constitutes a violation of a WTO agreement.\(^\text{32}\)

**B. TERMS OF PARTICIPATION IN THE KIMBERLEY PROCESS**

The Kimberley Process document states that it is necessary to address the issue of conflict diamonds because they “can be directly linked to the fuelling of armed conflict, the activities of rebel movements aimed at undermining or overthrowing legitimate governments, and the illicit traffic in, and proliferation of, armaments, especially small

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\(^\text{30}\) *See KIMBERLEY PROCESS CERTIFICATION SCHEME FOR ROUGH DIAMONDS, WORLD TRADE ORGANIZATION WT/L/676 (Dec. 15, 2006).*

\(^\text{31}\) Pursuant to the terms of the 1994 GATT, members of the WTO may bring a complaint against another WTO member state to the WTO dispute settlement body in the event that a member believes another member is acting in violation of a WTO agreement. *See DISPUTE SETTLEMENT, WORLD TRADE ORGANIZATION, available at* [http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm) *(last visited May 8, 2008)*. The dispute settlement body is at once a juridical and mediation body. *Id.*

\(^\text{32}\) *See KIMBERLEY PROCESS CERTIFICATION SCHEME FOR ROUGH DIAMONDS, WORLD TRADE ORGANIZATION WT/L/676 (Dec. 15, 2006).*
arms and light weapons.”\textsuperscript{33} It also acknowledged “the devastating impacts of conflicts fuelled by the trade in conflict diamonds on the peace, safety and security of people in affected countries and the systematic and gross human rights violations that have been perpetrated in such conflicts.”\textsuperscript{34} Although it is aimed at governmental actions, the Kimberley Process document also acknowledges the other segments of society that are necessary for its implementation to be meaningful.\textsuperscript{35}

The Kimberley Process document defines the term “conflict diamonds” as “rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments,”\textsuperscript{36} a definition which was originally given by the United Nations Security Council.\textsuperscript{37} Importantly, the Kimberley Process document defines the term “country of origin” in the diamond context as meaning “the country where a shipment of rough diamonds has been mined or extracted.”\textsuperscript{38} The importance of this definition stems from incidences in which diamonds were claimed to have a country of origin that did not have diamond deposits.\textsuperscript{39} The term “diamond” is given a specific and scientifically quantifiable definition in the Kimberley Process document, which is a vital step to insure that stones marketed as diamonds are in fact composed of the correct chemical structure.\textsuperscript{40}

\textsuperscript{33} KIMBERLEY PROCESS CERTIFICATION SCHEME PREAMBLE.
\textsuperscript{34} Id.
\textsuperscript{35} Id. (“Recalling that the Kimberley Process, which was established to fins a solution to the international problem of conflict diamonds, was inclusive of concerned stake holders, namely producing, exporting and importing states, the diamond industry and civil society.”).
\textsuperscript{36} Id. § 1.
\textsuperscript{37} Id.
\textsuperscript{38} Id.
\textsuperscript{40} KIMBERLEY PROCESS CERTIFICATION SCHEME § 1.
Under the terms of the Kimberley Process, each participant state which exports diamonds is required to issue a Kimberley Process Certificate to shipments of rough diamonds before they leave the participant state.\textsuperscript{41} The terms of a Kimberley Process Certificate may vary among participant states, provided that it meet certain minimum requirements.\textsuperscript{42} Exporting states must also ensure that Kimberley Process Certificates are sent “expeditiously” to the appropriate authorities, and that no imports are sent to a non-participant in the Kimberley Process.\textsuperscript{43} Both exporting and importing participants in the Kimberley Process are required to enact domestic legislation allowing for the imposition of the terms of the Kimberley Process and which will combat conflict diamonds within the participant’s jurisdiction generally.\textsuperscript{44} Exporting and importing states are also required to mandate that diamond shipments are shipped in “tamper resistant containers.”\textsuperscript{45} The Kimberley Process document is silent as to how an exporting or importing state is to handle conflict diamonds in the event that they present themselves to the appropriate governmental authority prior to leaving or on arrival at a participant state.\textsuperscript{46}

The Kimberley Process document requires that participant states provide the Chair of the Kimberley Process oversight body with information regarding implementation practices, particularly as they relate to the enactment of domestic

\textsuperscript{41} Id. §§ II, IV, Annex 1.
\textsuperscript{42} Id. Annex 1. A. These requirements are: “Each Certificate should bear the title ‘Kimberley Process Certificate’ and the following statement: ‘The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds’; Country of origin for shipment of parcels of unmixed . . . origin; Certificates may be issued in any language, provided that an English translation is incorporated; Unique numbering with the Alpha 2 country code . . . ; Tamper and forgery resistant; Date of issue; Date of expiry; Issuing authority; Identification of exporter and importer; Carat weight/mass; Value in US $; Number of parcels in shipment; Relevant Harmonised Commodity Description and Coding System; Validation of Certificate by Exporting Authority.” Id.
\textsuperscript{43} Id. § III.
\textsuperscript{44} Id. § IV.
\textsuperscript{45} Id. (c).
\textsuperscript{46} See generally KIMBERLEY PROCESS CERTIFICATION SCHEME.
legislation enshrining the terms of the Kimberley Process and the prohibition on conflict diamonds.\textsuperscript{47} While the Kimberley Process document provides a general framework for the resolution of disputes between participants as to the activities and compliance of a participant state, there is no explicit provision for the removal or expulsion of a participant state for non-compliance.\textsuperscript{48}

Oversight of the Kimberley Process is conducted through its Chair and several other processes. The Chair rotates between participant states annually.\textsuperscript{49} Participants are also required to submit to periodic review missions by a delegation comprised of state and other affiliated entities to oversee the participant’s implementation of and compliance with the Kimberley Process, as well as to suggest methods for solving compliance issues.\textsuperscript{50} The Annexes to the Kimberley Process document contain recommended provisions for the Kimberley Process Certificate’s contents, as well as for the various components of the diamond industry that are located within a participant state.\textsuperscript{51}

C. STRENGTHS AND WEAKNESS OF THE KIMBERLEY PROCESS

Perhaps one of the most important strengths of the Kimberley Process from the diamond and jewelry industry perspective is that it has provided consumers and members of the industry with a sense of assurance regarding their products and purchases. The Kimberley Process and the issue of conflict diamonds have led to the creation of domestic and international organizations of concerned diamond industry members, thus

\textsuperscript{47} Id. \textsuperscript{ V.}
\textsuperscript{48} Id.
\textsuperscript{49} Id. \textsuperscript{ VI.}
\textsuperscript{50} Id.
\textsuperscript{51} See generally id. Annexes I – III.
increasing the self-regulation of the industry.\textsuperscript{52} Legally, the Kimberley Process provides participant states with an obligation to pass enacting legislation, which is beneficial to the domestic legal structure of participant states because it legitimizes the need for laws making trafficking in conflict diamonds illegal.\textsuperscript{53} While this might seem to be an obvious decision, it has proven to be contentious in several states that were original participants in the Kimberley Process.\textsuperscript{54} Additionally, the practice of de-listing participant states found in violation of the Kimberley Process overall is a key practice in that it provides a public and economically damaging punishment for violation.\textsuperscript{55} At the same time, the practice of allowing de-listed members to be reinstated as participants once the particular issue which led to the de-listing has been resolved allows for an inclusive regime that places solving the inherent problem of conflict diamonds above an institutional bias.\textsuperscript{56}

The Kimberley Process is also important from an international law perspective in that it marks the first time that such a strong coalition of governments, industry and civil society has come together over a trade issue to the extent seen in the Kimberley Process. It is the author’s argument that the successes of the Kimberley Process – of which there are many – are possible because the Kimberley Process is an inclusive legal regime which was centered on an industry that knew the dangers to its product if it did not act to stop illegality in its markets. Unlike international arms embargoes or sanctions, which typically are created by states without the express involvement of the arms industry, the

\textsuperscript{53} KIMBERLEY PROCESS CERTIFICATION SCHEME § IV.
\textsuperscript{55} Id.; id. at 8.
\textsuperscript{56} Id.
Kimberley Process’ legitimacy lies in large part with the fact that it is a product of the global diamond industry itself.

Despite the many strengths of the Kimberley Process, there are several weaknesses inherent to the structure of the Kimberley Process document and its enforcement mechanisms. These weaknesses provide valuable lessons for the International Gemstone Certification System proposed in this article. It must be mentioned that, although the Kimberley Process has significantly reduced the flow of conflict diamonds throughout the legitimate global diamond market, conflict diamonds are still in existence.57

The Kimberley Process document preamble provides a broad explanation of the reasons for its creation in part, however it is limiting outside of the specific contexts of the use of conflict diamonds in West Africa. Even read expansively, “fuelling armed conflict”58 could be argued not to cover terrorist funding when the funds go to a variety of uses within a terrorist organization, such as salaries, housing and food.59 The same argument is true of the arms trafficking provisions of the Kimberley Process document preamble.60 As such, the preamble can be seen as region-specific and conflict-specific in that it does not anticipate other potentially illicit uses of diamonds, such as terrorist funding. Although the preamble is purely a statement of intent of the parties, the limitations imposed therein could become problematic should conflict diamonds become an issue in other parts of the world and be used for other purposes than those specifically described.

57 Id. at 6.
58 See Kimberley Process Certification Scheme Preamble.
59 Id.
60 Id.
As a definitional matter, it is the author’s position that the definition of “conflict diamonds” is also unduly restrictive. By defining conflict diamonds as “rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments,” the Kimberley Process further restricts its applicability in other situations, such as terrorist entity funding or a situation such as Somalia, in which there is an unsettled question as to the identity of the legitimate government.61 Although this definition is qualified by the statement that it could include similar definitions if enacted by the United Nations,62 it is still a weak scope of application given the extent to which diamonds can be used to fund conduct regarded as illegal by the international community.

The Kimberley Process document does not address the issue of how to handle confiscated conflict diamonds.63 Reports generated by participant state reviews indicate that this is a persistent problem that leads to irregularity of outcome between participant states.64 Some participant states have a policy of confiscating conflict diamonds and, where relevant, using them as evidence in subsequent investigations.65 Other participants simply return conflict diamonds to their senders, ensuring that conflict diamonds do not enter the jurisdiction at issue but allowing the sender another opportunity to sell the

61 Id. § 1.
62 Id.
63 See generally id.
diamonds,\textsuperscript{66} perhaps to a non-participant state. The reviewers unanimously endorse the practice of confiscation, and suggest that states that have not adopted this practice do so,\textsuperscript{67} however there has been no other attempt to clarify this issue.

**III – THE GEMSTONE INDUSTRY, GEMSTONES AND GEMSTONE PRODUCERS**

**A. THE GEMSTONE INDUSTRY**

Perhaps the most notable difference between the global gemstone industry and the global diamond industry is the lack of cohesion in the former. While the hallmark of the global diamond industry is its control by a small number of entities, there is no such entity structure within the gemstone industry regardless of the particular gemstone discussed.\textsuperscript{68} Regardless of source, gemstones generally pass from the producer (mine) in their rough form to a purchaser who may resell them or have them cut and then resell them.\textsuperscript{69} Thus, it is possible for a gemstone to go through a variety of hands before it is finally purchased by a consumer.\textsuperscript{70} There are some exceptions to this rule, in which a jewelry manufacturer holds contracts with a specific gemstone mine and uses only stones from that source, however such exceptions are truly rare.\textsuperscript{71}


\textsuperscript{67} See id.

\textsuperscript{68} See **COLORED STONE ESSENTIALS BOOK 4, MARKET AWARENESS**, GEMOLOGICAL INSTITUTE OF AMERICA 8 – 9 (2007).

\textsuperscript{69} Id. 9 – 11.

\textsuperscript{70} Id. 8 – 11.

\textsuperscript{71} One such manufacturer is Columbia Gem House, Inc. See **COLUMBIA GEM HOUSE, INC.**, available at http://columbiagemhouse.com/index.html (last visited May 8, 2008).
Worldwide, there is a dramatic variety of mining operations used to extract gemstones. At its most basic level is the practice of artisanal mining, which often encompasses traditional mining practices of a given area and is not production-intensive. Between artisanal mining practices and large mining operations are small-scale mining operations, which are often used for extracting alluvial gemstones. Finally, there are large-scale operations that are similar to the large-scale mining operations used in diamond mining. Regardless of the mining method used, the mining of gemstones overall is frequently a dangerous practice due to the physical location of gemstone deposits and the security surrounding the mines themselves. Even large-scale mining operations can present unfathomable security concerns, as evidenced by the conditions surrounding emerald mines in Colombia.

To fully understand the gemstone market and industry per se, it is also necessary to understand that determining the source of a gemstone once it has been removed from the earth is very difficult. Although there are some potentially identifying features to a stone, such as inclusions of a particular substance that is only found in certain areas, even inclusions cannot pinpoint the actual source of a gemstone. The only exception to this rule is in a situation where the gemstone at issue is a stone such as tanzanite, ametrine, or

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72 See generally THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 9 (Spring 2006) (providing brief descriptions of mining techniques used to extract a variety of gems at source spots around the world).
73 Id.
74 Id.
75 Id.
76 See id.
77 See WARD, EMERALDS, supra note 2 at 13 – 17.
78 See COLORED STONE ESSENTIALS BOOK 4, MARKET AWARENESS, GEMOLOGICAL INSTITUTE OF AMERICA 3 (2007).
79 Id.
zultanite, which are known to exist only in one area of the world.\textsuperscript{80} Even then, determining the exact mine from which such a stone came is nearly impossible.

The global gemstone industry has not taken steps to address the issue of gemstones being used to fund illegal activities. It has taken up issues of social responsibility in terms of creating better working conditions for miners and better educational opportunities for the children of miners.\textsuperscript{81} Various entities within the global gemstone industry are currently examining the possibility of creating a “gem identity assurance program” for consumers, however this proposed program is geared solely towards assuring consumers that the gemstones they purchase are natural stones and not synthetics.\textsuperscript{82} In the wake of the Burmese crackdown on pro-democracy protests spearheaded by Buddhist monks, the gemstone industry did respond by condemning these actions and several states, including the United States, boycotted the bi-annual gemstone sale held by the Burmese government.\textsuperscript{83} At the same time, the governments of the United States and the European Union have established embargoes on various Burmese products – including gemstones and jewelry – in official protest over the actions of the Burmese government against its citizens.\textsuperscript{84} And, in response to an article alleging ties between Al-Qaeda financing and tanzanite sales, U.S. jewelry manufacturers and retailers instituted a temporary ban until the U.S. State Department indicated that it could not substantiate the

\textsuperscript{80} See infra Part III. B, C.
\textsuperscript{81} \textit{ICA undertakes social responsibility initiatives in mining areas}, InColor, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 8 (Winter 2007/08).
\textsuperscript{82} See \textit{A ‘GEM IDENTITY ASSURANCE PROGRAM’ FOR YOUR COMPANY AND CLIENTS}, InColor, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 26 -7 (Summer 2007).
\textsuperscript{84} See infra Part III.C. (addressing Myanmar/Burma).
claimed links between tanzanite and terrorism.\textsuperscript{85} All of these measures, while commendable statements by the gemstone industry and the governments of the United States and the European Union, have not progressed to an overall examination of the gemstone industry and the potential for illegality that stems from it.

\textbf{B. IMPORTANT GEMSTONES}

Within the gemstone and jewelry industries, the combination of rubies, sapphires and emeralds is referred to as “the big three” due to the prominence of these gems.\textsuperscript{86} The gemstone world, however, encompasses far more than these three gemstones, and even within these gemstones there is a variety of options, all of which are of value.\textsuperscript{87} The gemstones discussed below have been chosen for inclusion in the proposed International Gemstone Certification System for several reasons. Some are valuable and, as such, are naturally attractive to illicit activities because of the high price they can fetch. Others are lower in value but more commonly used in the jewelry industry, making them attractive due to their easy salability. Because of their easy access to consumers, these gemstones could also serve to enhance the need for the International Gemstone Certification System because of the universal outcry that their illicit use can produce. An example of this is discussed in the portion of this section addressing tanzanite.

When discussing gemstones, it is important to note the role of carat size as opposed to the use of carat size in the diamond market. In the diamond market, purchases

\textsuperscript{85} See infra Part III. C. (discussing the issue of tanzanite’s alleged links to terror funding).
\textsuperscript{86} See \textsc{Colored Stone Essentials} Book 8, \textsc{Presenting the Big 3}, \textsc{Gemological Institute of America} 1 (2007).
\textsuperscript{87} See generally id.
of over one carat are relatively rare. By contrast, carat weight is not as important a factor in gemstone sales because most gemstones are easily over a carat after being polished and/or cut. Diamonds and gemstones also differ in the area of the importance of inclusions. An inclusion is anything other than the chemical composition of a particular stone that is found inside the stone. A diamond without inclusions is extremely rare and included diamonds will typically lose value based on the size, type and location of the inclusion in the finished stone. Gemstones are far more likely to have inclusions than diamonds and, although an extreme number of inclusions might diminish a gemstone’s value, inclusions generally do not play as vital a role in a gemstone’s value as they do in a diamond’s value. Inclusions in any type of stone, be it a diamond or a gemstone, are generally regarded as being proof of its genuineness and are increasingly important given the market presence of synthetic diamonds and gemstones. A final important contrast between the diamond market and the gemstone market is the place of treatments as a legitimate practice. In the gemstone market, treatments are common and frequently enhance the natural color or durability of a gemstone. Some treatments are misleading to the consumer or dangerous to the

88 See Ward, Diamonds, supra note 6.
89 See generally Colored Stone Essentials Book 3, Clarity, Cut and Carat Weight, Gemological Institute of America (2007).
90 See generally Ward, Diamonds, supra note 6.
92 See generally Ward, Diamonds, supra note 6.
94 See id.
96 See id.
gemstone and, under U.S. law, treatments must be disclosed by the seller to the consumer prior to sale.

1. *Agate.* There are several varieties of agate, including iris agate, scenic agate (which appears to contain a nature scene due to the arrangement of its chemical composition), landscape agate (which has similar properties to scenic agate), and eye agate. Agate ranges in size and is particularly useful for carving images.

2. *Alexandrite.* Alexandrite is a rare gemstone that changes color from green in the daylight to brown or red in lower light.

3. *Amber.* Amber is a prehistoric sap that hardened and encapsulated various forms of insects and vegetation in the process.

4. *Amethyst.* Amethyst is a purple colored variety of quartz; as with all gems, the depth of color an amethyst displays is a key factor in its value.

5. *Ametrine.* Ametrine is mined in Bolivia. It is a unique, bi-colored purple and yellow stone.

6. *Aquamarine.* Aquamarine is a light blue form of beryl and is considered a valuable stone.

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97 Id. 3.
98 Id.
100 Id.
104 Id.
106 Id.
7. **Cat’s Eye/Chrysoberyl.** Cat’s Eye is so named because the grouping of inclusions found in the center of the stone combines to create an effect that looks like a cat’s eye.108

8. **Chalcedony.** Chalcedony is an ancient gemstone that comes in a variety of colors and is generally opaque regardless of the color.109 It is regarded as an affordable gem because of its widespread availability, and is often used in a cabochon style.110

9. **Citrine.** Citrine is a yellow to orange colored member of the quartz family.111 It comes in a variety of sizes and is marketable at all of them.112

10. **Demantoid.** Demantoid is a form of garnet that comes in an array of green colors, ranging from light to dark.113 It is a unique gemstone in that it can be faceted more than a gemstone is usually faceted, achieving many of the same color spectrum traits as a cut diamond.114 Although it is being actively mined, it is rare in the gem market.115

11. **Emerald.** Emerald is known for its intense green color.116 It is a prized form of beryl117 and is regarded as one of the “big three” gemstones (along with sapphire and ruby).118

107 *See* AQUAMARINE, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 12 (2006).
110 Id.
111 *See* CITRINE, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 26 (2006).
112 Id.
113 *See* DEMANTOID, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 32 (2006).
114 Id.
115 Id.
116 *See* EMERALD, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 34 (2006).
117 Id.
118 *See* COLORED STONE ESSENTIALS BOOK 8, PRESENTING THE BIG 3, GEMOLOGICAL INSTITUTE OF AMERICA 1 (2007).
12. **Garnet.** Garnet is the family name for a variety of different gemstones that share its chemical composition, and commonly refers to a red variety of the family.\(^\text{119}\)

13. **Jade** (encompassing Jadeite and Nephrite). The term “jade” refers to either jadeite or nephrite, two gemstones which are available in a wide range of colors and have been prized for centuries, especially in Asian cultures, which frequently use them as carving materials as well as in items of jewelry.\(^\text{120}\) Of the two, nephrite is the least expensive.\(^\text{121}\)

14. **Kunzite.** Kunzite is either light pink or light purple in color and is difficult to find at the high-quality gemstone level.\(^\text{122}\) It was discovered in the early 20\(^{th}\) century in the United States.\(^\text{123}\)

15. **Lapis Lazuli.** Although lapis is a gemstone, within that category it is classified as a “rock.”\(^\text{124}\) Its colors are generally within a spectrum of blues, and it is frequently colored by veins of gold or white.\(^\text{125}\) It is an opaque gemstone that,\(^\text{126}\) as discussed below, was allegedly used to finance the Afghan conflict in the mid-1990s.\(^\text{127}\)

16. **Malachite.** Malachite’s color ranges from blue to green.\(^\text{128}\) It is opaque with visible banding patterns and is often used for carvings.\(^\text{129}\)


\(^{120}\) See jade (jadeite), essential colored stone reference guide, gemological institute of America 46 (2006); jade (nephrite), essential colored stone reference guide, gemological institute of America 50 (2006).

\(^{121}\) Id.

\(^{122}\) See Kunzite, essential colored stone reference guide, gemological institute of America 54 (2006).

\(^{123}\) Id.


\(^{125}\) Id.

\(^{126}\) Id.

\(^{127}\) See infra Part III. C. A.


\(^{129}\) Id.
17. **Moonstone.** Moonstone is typically a white stone that may be opaque.\textsuperscript{130} It is regarded as readily available throughout the gemstone market.\textsuperscript{131}

18. **Morganite.** Morganite is a pink to purple gemstone which is mined in a few areas and which is currently regarded as collectible due to the small quantities present on the gem market.\textsuperscript{132}

19. **Opal.** There are four types of opal: black, white, fire and boulder.\textsuperscript{133} Of these, black opal is the rarest on the market.\textsuperscript{134}

20. **Peridot.** Peridot can be brown, yellow or green in color.\textsuperscript{135} In terms of market availability, peridots are easily available and thus regarded as affordable.\textsuperscript{136}

21. **Ruby.** Ruby is one of the “big three” gemstones.\textsuperscript{137} Along with sapphire, ruby is a member of the corundum family.\textsuperscript{138} There is a one chemical difference between ruby, which is red, and all colors of sapphire.\textsuperscript{139} Within the ruby category is also the star ruby, which is an opaque ruby featuring inclusions that form six beams that intersect in the middle of the stone.\textsuperscript{140}

\textsuperscript{130} See MOONSTONE, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 62 (2006).
\textsuperscript{131} Id.
\textsuperscript{132} See MORGANITE, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 64 (2006).
\textsuperscript{133} See OPAL, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 68 – 9 (2006).
\textsuperscript{134} Id.
\textsuperscript{135} See PERIDOT, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 76 (2006).
\textsuperscript{136} Id.
\textsuperscript{137} See COLORED STONES ESSENTIALS BOOK 8, PRESENTING THE BIG 3, GEMOLOGICAL INSTITUTE OF AMERICA 1 (2007).
\textsuperscript{138} See RUBY, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 84 (2006).
\textsuperscript{139} Id.
\textsuperscript{140} See STAR RUBY, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 102 (2006).
22. **Sapphire.** Sapphire is the last of the “big three” gemstones and, as noted above, is chemically similar to ruby. The term “sapphire” refers to a stone that is blue in color. There are a multitude of other sapphire colors, however everything other than blue must be prefaced with a color description (ie. pink sapphire). Sapphires other than blue sapphires are generally referred to as fancy sapphires. One of the rarest sapphire varieties is the pink padparadscha sapphire. Within the sapphire category is also the star sapphire, which is an opaque sapphire featuring inclusions that form six beams that intersect in the middle of the stone.

23. **Spinel.** Spinel comes in a variety of colors. It is available in limited supply and has historically been confused with other gemstones such as rubies.

24. **Tanzanite.** Tanzanite is solely available in Tanzania. Its colors vary from deep blue to purple. Tanzanite, as discussed below, has been implicated in terror funding, and its pricing depends on external factors such as this in addition to general market availability.

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141 See **SAPPHIRE, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA** 88 (2006).
142 Id.
143 Id.
144 Id.
146 See **STAR SAPPHIRE, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 106** (2006).
147 See **SPINEL, ESSENTIAL COLORED STONE REFERENCE GUIDE, GEMOLOGICAL INSTITUTE OF AMERICA 100** (2006).
148 Id.
150 Id.
151 Id.; see also infra Part III. C.
25.  *Tiger’s eye.* Tiger’s eye is an opaque form of quartz that has striations similar to those found in cat’s eye except that these striations are not the result of inclusions.\textsuperscript{152} Tiger’s eye is regarded as affordable on the gemstone market.\textsuperscript{153}

26.  *Topaz.* Topaz is available in several colors and its affordability depends on the location of the buyer, as consumers in different countries generally have different preferences in terms of topaz color.\textsuperscript{154}

27.  *Tourmaline.* Tourmaline is available in many colors and is mined throughout the world, although some of the most prized varieties come from Paraiba in Brazil and Madagascar.\textsuperscript{155}

28.  *Tsavorite.* Tsavorite is a deep green colored garnet that is regarded as expensive on the gemstone market because it is only available in Kenya and Tanzania.\textsuperscript{156}

29.  *Turquoise.* Turquoise can be either translucent or opaque and ranges in color throughout the blue spectrum.\textsuperscript{157} Turquoise can have veins in it, which reduce its value.\textsuperscript{158} Overall, the value of turquoise depends on its color and veining.\textsuperscript{159}

30.  *Zircon.* Zircon is a gemstone that is found in a spectrum of colors.\textsuperscript{160} Its value depends on the availability of the particular shade involved.\textsuperscript{161}


\textsuperscript{153} Id.


\textsuperscript{158} Id.

\textsuperscript{159} Id.

31. **Zultanite.** Zultanite is a relatively new gemstone on the market. It is found exclusively in Turkey and is Turkey’s only commercially produced gemstone. Zultanite is unique in its color-changing abilities, which go from green to purple depending on the light, and is extremely rare on the gemstone market due to the method of extraction necessary to mine it and the many difficulties associated with cutting it.

**C. GEMSTONE PRODUCING STATES**

As the above section demonstrates, the global gemstone market is a multifaceted entity that involves far more than simply the big three gems. From extremely rare gems such as zultanite to common gems such as moonstone, the global gemstone market encompasses a multitude of gems and spans the globe in terms of mining operations. The number of states that are involved in gem mining far surpasses those involved in diamond mining and production. The below summary of the states in which gemstones are mined demonstrates that issues of conflict financing, smuggling and black market involvement, terrorism financing, and human trafficking face many gemstone producing states at an equal or greater rate than the number of diamond producing states which were and are faced with issues surrounding conflict diamonds. The issues facing gemstone producing states are important to raise awareness generally – particularly awareness within the international legal community – as well as to provide an understanding of the reasons

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161 Id.
163 Id.
164 Id.
behind some of the proposed provisions of the International Gemstone Certificate System set out in Part IV of this article.

These country summaries should be read with several pieces of information in mind. The first is that financing of terrorist activities and other conflict-related activities is very fluid and can be easily adapted to fit the needs and capabilities of a particular area or group.\textsuperscript{165} Thus, a state without a sophisticated trading system, mining system, or banking system can just as easily host terror-related financing activities as a state with sophisticated apparatuses.\textsuperscript{166} Second is that, despite the wording used in the Kimberley Process document definitions, terrorist acts and human rights violations can as easily be sponsored or performed by states as by separate groups.\textsuperscript{167} Thus, states that have gemstone resources should not be considered immune for having to be policed in the international arena for their own conduct. Third, not all terror and conflict related financing occurs on its own or even illegitimately. Sometimes it is coupled with trafficking in narcotics or human beings, while other times it is coupled with or performed under the guise of legal trade.\textsuperscript{168} This is an important consideration because it takes the idea of terror and conflict funding out of the shadows and means that heightened vigilance – such as that which was created through the Kimberley Process – of industries and finances is the only way to make a concerted international stand against terror and conflict support. Such a conclusion is bolstered by the examples of Myanmar, which has enacted anti-terror and counter-terrorism financing laws and yet is still the

\textsuperscript{166} Id.
\textsuperscript{167} Id.
\textsuperscript{168} Id.
home of serious illicit trafficking in goods such as gemstones although such acts would likely be covered by these laws.\textsuperscript{169}

1. Afghanistan.

Afghanistan produces emeralds, rubies, kunzite, pink sapphires, tourmaline, aquamarine and lapis.\textsuperscript{170} As of 2006, the Afghan government had placed restrictions on the exporting of any gemstones outside of Afghanistan, however it is believed that gemstones produced through Afghan mining do make their way into the global gemstone market through illegal means such as smuggling.\textsuperscript{171} The primary point of sale for these smuggled gemstones, especially emeralds, has been identified as Pakistan.\textsuperscript{172} During the civil war that engulfed Afghanistan in the mid-1990s it was reported that the Taliban and its affiliates raised funds to support their operations through trading in lapis.\textsuperscript{173} Additionally, Afghan emeralds have also been connected to the civil war in the 1990s.\textsuperscript{174}

Currently, the Afghan economy is under-developed and largely dependent on foreign aid in order to survive.\textsuperscript{175} One of the largest issues in Afghanistan’s economic future is the ability to successfully end narco-trafficking, as Afghanistan is and in recent history has been an important source of opium.\textsuperscript{176} Its key exports include gemstones, and its primary export partners are India, Pakistan, the United States, the United Kingdom

\begin{itemize}
  \item \textsuperscript{169}Id.
  \item \textsuperscript{170}See Afghanistan, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, IINCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 6 (Spring 2006).
  \item \textsuperscript{171}Id.
  \item \textsuperscript{172}Id.
  \item \textsuperscript{173}See Gemstones fund Afghan war, BBC NEWS, Nov. 6, 1997, available at \url{http://news.bbc.co.uk/2/hi/world/west_asia/23517.stm} (last visited May 8, 2008).
  \item \textsuperscript{174}See Philippe Le Billon, The political economy of resource wars in ANGOLA’S WAR ECONOMY: THE ROLE OF OIL AND DIAMONDS, INSTITUTE FOR SECURITY STUDIES 24 (2000).
  \item \textsuperscript{176}Id.
\end{itemize}
and Finland.\textsuperscript{177} Legally and economically, Afghanistan is currently facing many obstacles in its attempts to develop domestic industries.\textsuperscript{178}

An active Taliban resistance movement operates within Afghanistan and receives funding and aid from areas of the Pakistan/Afghanistan border that are not fully secured.\textsuperscript{179} The US State Department has identified Afghanistan and the Afghan-Pakistan border areas as being terrorist safe havens.\textsuperscript{180}

2. 	extit{Australia}.

Australia produces opals and sapphires in addition to its sizeable production of diamonds.\textsuperscript{181} The Australian government is actively involved in the granting of licenses for opal and sapphire mining, and there are few reports of illegal or illicit trading or activities involving Australian gemstones.\textsuperscript{182} The Australian government applies a sliding scale of royalties and taxes to gemstones produced within its borders.\textsuperscript{183} Australia is a member of the FATF, an international association that is involved in monitoring legal and implementational issues involving money laundering and terrorism financing.\textsuperscript{184}

\begin{flushleft}
\textsuperscript{177} Id.
\textsuperscript{178} See \textsc{Afghanistan} 2007, IMF Country Report No. 08/76 (Feb. 2008).
\textsuperscript{181} See \textsc{Australia}, The ICA 2006 World Colored Gemstones Mining Report, InColor, International Colored Gemstone Association 9 – 11 (Spring 2006).
\textsuperscript{182} See id.
\textsuperscript{184} See FATF Members and Observers, FATF-GAFI, available at http://www.fatf-gafi.org/document/52/0,3343,en_32250379_32237295_34027188_1_1_1_1,00.html (last visited May 8, 2008).
\end{flushleft}
3. **Bolivia.**

Bolivia’s production of gemstones centers on ametrine, a gemstone that is mined exclusively in Bolivia.\(^{185}\) Mining of ametrine is now legal under Bolivian law, however at the time it was first discovered in the 1970s, ametrine was typically marketed as having originated in neighboring states such as Uruguay and Brazil due to mining law concerns.\(^{186}\) Bolivia asserts ownership of all gemstones within its borders and applies a sliding scale of royalties to them.\(^{187}\)

Bolivia is an impoverished nation and has suffered from inflation and politically-based insecurity.\(^{188}\) Although ametrine is mined exclusively in Bolivia, it is not one of the country’s top exports.\(^{189}\) Bolivia’s key export partners are Brazil, the United States, Argentina, Colombia, Japan and South Korea.\(^{190}\)

The US State Department regards Bolivia as a state that is increasingly ripe to become affiliated with major international terrorist groups as a result of its domestic conditions and existing relationships with regional rebel and terrorist groups.\(^{191}\) These concerns are compounded by issues of border security.\(^{192}\)

4. **Brazil.**


\(^{186}\) Id.

\(^{187}\) OTTO, supra note 183 at 131.


\(^{189}\) Id.

\(^{190}\) Id.


\(^{192}\) Id.
Brazil is a producer of tourmaline, emerald, alexandrite, amethyst, citrine, several varieties of quartz and topaz. 193 Brazil is a participant state in the Kimberley Process. 194 Among members of the gemstone market, Brazil is regarded as having extremely high-quality gemstones. 195 Brazil uses a sliding scale of royalty assessments for gemstones. 196

Brazil’s economy is strong across a variety of sectors. 197 Gemstones are not on the list of Brazil’s most important export products despite its deep involvement in the gemstone mining process. 198 Brazil’s key export partners are the United States, Argentina, China, the Netherlands and Germany. 199

Brazil is part of the Tri-Border Area that the US State Department has identified as a terrorist safe haven. 200 The other states involved in this area are Argentina and Paraguay. 201 All three states, along with the US, have taken steps to address the multitude of illegal activities that occur in this area with mixed success. 202 Key among the illegal activities occurring in the Tri-Border Area is illegal smuggling of goods and commodities. 203 Under the terms of the Brazilian anti-money laundering laws, dealers in gemstones and jewelry must identify and retain records for “transactions of at least BRL

196 OTTO, supra note 183 at 133.
198 Id.
199 Id.
201 Id.
202 Id.
15,000 in industrial sales.” This law creates several loopholes, not only in terms of excluding a significant part of the mining sector by using the term “dealer,” and in providing an amount which can be bypassed through structured payments, but also in that it applies solely to industrial sales.

5. Cambodia.

Cambodia produces sapphire, rubies, zircon and black spinel. Reports in 2006 indicate that much of Cambodia’s artisanal mining – possible because much of the gemstones found in Cambodia are alluvial – is being reduced in favor of agricultural farming; however, more sophisticated and mechanized mining operations do still function in Cambodia. Cambodian emeralds have been implicated as funding conflicts in the 1990s.

After years of suppression under the Khmer Rouge regime, the Cambodian economy is reemerging as a growing economy in the international trading arena. The CIA has identified mining, including gemstones, as an area in which Cambodia can and likely will attract foreign investors. Currently, gemstones are not among the country’s top export products. Cambodia’s key export trading partners are the United States, Hong Kong, Germany and the United Kingdom.

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205 Id.
207 Id.
208 Le Billon, supra note 174 at 24.
210 Id.
211 Id.
212 Id.
The US State Department has indicated that border insecurity and widespread corruption are both problems which affect Cambodia generally and are of particular importance in its attempts to enforce the counter-terrorism financing laws which Cambodia has enacted.  

6. Canada.

Canada is a producer of opal, amethyst, peridot, and jade/nephrite. Additionally, efforts are under way to determine whether deposits of emerald, ruby and sapphire that have been found in Canada are marketable as gem-quality stones. A sight of an increasing diamond mining industry as well, Canada is a Kimberley Process participant. Canada is regarded as a stable state in the gemstone market due to its strong infrastructural and governmental systems. Taxation systems for gemstones in Canada are set by the provinces.

Canada has passed strong counter-terrorism financing laws and is involved in the international regulation of counter-terrorism financing laws and practices. Canada is a member of the FATF.

7. Chile.

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214 CANADA, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 17 (Spring 2006).

215 Id.


217 CANADA, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 17 (Spring 2006).

218 OTTO, supra note 183 at 148.


Chile produces lapis.\textsuperscript{221} As of 2006, the Chilean government did not impose royalties on gemstones or minerals.\textsuperscript{222} The Chilean economy is deeply intertwined with international trade and is a member of many regional and international entities, as well as a signatory to a number of bi-lateral trade agreements.\textsuperscript{223} Lapis is not among the top products exported by Chile.\textsuperscript{224} Chile’s primary export trading partners are the United States, Argentina, Brazil and China.\textsuperscript{225}

8. \textit{China}.

China is a producer of sapphire, rubies, emeralds, tourmaline, aquamarine, garnet, peridot, turquoise and jade/nephrite.\textsuperscript{226} China is also a Kimberley Process participant.\textsuperscript{227} China’s mining capabilities include artisanal and sophisticated, mechanized mining operations.\textsuperscript{228} At several points throughout the gemstone mining and trading process, the Chinese government imposes heavy taxes.\textsuperscript{229}

Although still a communist country, China has become intertwined with the international market economy as an exporter and importer of goods.\textsuperscript{230} Gemstones are not among China’s top exported products, which tend to cluster around various electronic

\begin{itemize}
\item \textsuperscript{221} See \textit{MAJOR WORLD GEM PRODUCING REGIONS MAP, GEMOLOGICAL INSTITUTE OF AMERICA} (2000).
\item \textsuperscript{222} OTTO, \textit{supra} note 183 at 135.
\item \textsuperscript{224} Id.
\item \textsuperscript{225} Id.
\item \textsuperscript{226} CHINA, \textit{THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION} 20 – 1 (Spring 2006).
\item \textsuperscript{227} \textit{See PARTICIPANTS WORLD MAP, KIMBERLEY PROCESS}, available at \url{http://www.kimberleyprocess.com/structure/participants_world_map_en.html} (last visited May 8, 2008).
\item \textsuperscript{228} \textit{CHINA, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION} 20 – 1 (Spring 2006).
\item \textsuperscript{229} OTTO, \textit{supra} note 183 at 25.
\end{itemize}
goods. China’s key export trading partners are the United States, Hong Kong, Japan, South Korea and Germany.\footnote{id}

The US State Department has identified China’s borders as being porous.\footnote{id} Despite its counter-terrorism financing laws, the State Department has indicated that China’s largely currency-based economy is difficult to police in reality.\footnote{id} China is a member of the FATF.\footnote{id}

9. Colombia

Colombia is a producer of emeralds, sapphires and fancy sapphires and peridots.\footnote{id} It is best known for its emeralds, which have been sought after throughout history.\footnote{id} The Colombian government leases mining rights for emerald mining operations to bidders for the lease franchises;\footnote{id} often these mines are located in extremely dangerous areas of the country.\footnote{id} The sapphire deposits found in Colombia are located in an area of the country that is under the control of anti-government FARC rebels.\footnote{id} Colombian emeralds have been implicated in financing conflicts during the

\footnote{id}{\textit{Id.}}
\footnote{id}{\textit{Id.}}
\footnote{id}{\textit{Id.}}
\footnote{id}{See FATF Members and Observers, FATF-Gafi, available at http://www.fatf-gafi.org/document/52/0_3343_en_32250379_32237295_34027188_1_L_1_1_00.html (last visited May 8, 2008).}
\footnote{id}{Colombia, The ICA 2006 World Colored Gemstones Mining Report, INCOLOR, International Colored Gemstone Association 21 – 3 (Spring 2006).}
\footnote{id}{See generally Ward, Emeralds, \textit{supra} note 2.}
\footnote{id}{Colombia, The ICA 2006 World Colored Gemstones Mining Report, INCOLOR, International Colored Gemstone Association 21 – 3 (Spring 2006); Ward, Emeralds, \textit{supra} note 2.}
\footnote{id}{See generally Ward, Emeralds, \textit{supra} note 2.}
\footnote{id}{Colombia, The ICA 2006 World Colored Gemstones Mining Report, INCOLOR, International Colored Gemstone Association 21 – 3 (Spring 2006).}
1990s.\textsuperscript{241} According to the Gemological Institute of America, tens of millions of dollars in emeralds have been imported illegally into the United States alone.\textsuperscript{242}

The Colombian economy is regarded as growing despite the financial stresses on the government, which include infrastructural support and development, public debt management, and funding continuous efforts to stop the cultivation and sale of narcotics.\textsuperscript{243} Among Colombia’s top export products are the emeralds for which it is well-known.\textsuperscript{244} Colombia’s primary export trading partners are the United States, Venezuela and Ecuador,\textsuperscript{245} as well as Mexico, the EU and China.\textsuperscript{246}

Several terrorist groups, most notably FARC, operate within Colombia’s borders.\textsuperscript{247} Colombia has enacted significant anti-terror laws, including counter-terrorism financing laws, and polices them heavily.\textsuperscript{248} However, much of Colombian law enforcement time and resources is devoted to the trade in illicit drugs.\textsuperscript{249} There are also border security issues in Colombia, and the US State Department has classified the Colombian border areas (encompassing Colombia’s borders with Brazil, Ecuador, Panama, Peru and Venezuela) as being terrorist safe havens.\textsuperscript{250}

10. Democratic Republic of the Congo.

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\textsuperscript{241} LE BILLON, supra note 174 at 24.
\textsuperscript{242} COLORED STONE ESSENTIALS BOOK 8, PRESENTING THE BIG 3, GEMOLOGICAL INSTITUTE OF AMERICA 7 (2007).
\textsuperscript{244} Id.
\textsuperscript{245} Id.
\textsuperscript{248} Id.
\textsuperscript{249} Id.
\textsuperscript{250} Id.
\end{flushright}
The DRC is a producer of tourmaline. As a participant in one of the conflicts which first brought worldwide attention to the issue of conflict diamonds, it is perhaps not surprising that the DRC is a Kimberley Process participant.

The economy of the DRC has been severely dampened by the bloody civil war from which it is beginning to emerge. Much financial uncertainty still plagues the DRC’s economy and the CIA estimates that much of the real economic activities in the DRC are illicit and not reported to the government for inclusion in official data. Mining generally is regarded as one industry that has assisted in the increase in the DRC’s economic growth in the post-war years. Diamonds are a top export product of the DRC, although tourmaline is not. The DRC’s chief export trading partners are Belgium, China, Brazil, Chile, Finland and the United States.

11. Dominican Republic

The Dominican Republic is a producer of amber. The Dominican Republic uses a set calculation to assess royalty fees on minerals generally, including gemstones. The economy of the Dominican Republic is heavily dependent on the agricultural and nickel markets, and it derives the majority of its trade payments from the United States.

Minerals constitute a top export product for the Dominican Republic, while amber does

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251 CONGO, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 23 (Spring 2006).
254 Id.
255 Id.
256 Id.
257 Id.
259 OTTO, supra note 183 at 137.
The key export trading partners for the Dominican Republic are the United States (accounting for over 70% of exports), the United Kingdom and Belgium. The US State Department has indicated that border security is an issue at the Dominican Republic’s maritime and land-based borders.

12. Ethiopia

Ethiopia produces fire opals, agates, aquamarine, chalcedony, emeralds, garnets, rubies, sapphires and spinel. Ethiopia’s economy is characterized by agricultural products, resulting in severe economic downturns during years of drought. Increasingly, it has been reported that Ethiopian farmers have turned to growing qat – a narcotic substance – in order to make more money than can be made from standard agricultural cultivation. Gemstones are not among Ethiopia’s top export products. Ethiopia’s key trading partners are Germany, China, Japan, the United States, Saudi Arabia, Djibouti and Italy.

The U.S. State Department and Ethiopian government officials have identified Ethiopia as being vulnerable to money-laundering operations due to its location and expanding financial and banking sectors.

13. Guatemala

Id.

Id.


Id.

Id.

Id.

Guatemala is a producer of jade/jadite. Due to its internal instability, in 2006 Guatemala was deemed to be an “unacceptable” risk for foreign mining investors by the International Colored Stones Association.

Guatemala’s economy is slowly recovering from a civil war that lasted nearly four decades. It is primarily based in agriculture and jade is not among the most important exports Guatemala produces. Guatemala’s main export trading partners are the United States, El Salvador, Honduras and Mexico.

The US State Department has indicated that border security issues in Guatemala allow human and other illicit trafficking to occur. Although it was listed by the FATF due to its inability to legally control money laundering (a key component of terrorism financing schemes), Guatemala has recently enacted broad-based counter-terrorism financing laws and was de-listed by the FATF in 2005.


Honduras produces opal. Its ability to fully exploit these opal deposits has been hampered by domestic laws that limit the number of gemstone mining concession holders allowed to operate in Honduras.

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271 Id.
273 Id.
274 Id.
275 Id.
276 Id.
277 Id.
279 Id.
Honduras is an extremely poor country that has experienced greater economic hardship in recent years due to increasing state expenditures and decreases in state-generated revenue. Honduras’ primary exports do not include opal. Its primary export trading partners are the United States, Guatemala and El Salvador. Canada is also an important export trading partner.

The US State Department has identified Honduras as having border security issues, especially in the realm of human trafficking and illegal immigration. The Honduran government has taken measures to ensure that counter-terrorism financing laws are enacted and enforced.

15. India.

India is a producer of emeralds, rubies, sapphire, cat’s eye, alexandrite, amethyst, quartz, garnets, tourmaline, spinel, zircon, aquamarine, and star rubies. A producer of diamonds, India is a Kimberley Process participant. India is regarded as the premiere producer of many of the gems it produces and has fairly sophisticated mining operations.

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281 Id.
284 Id.
generally. The Indian government does impose royalties on the gemstone mining business, however the amount of that royalty can be modified.

India’s economy is regarded as strong and growing, although there are certain areas in which it is still in need of advancement. Mining is classified as a top Indian export product. India’s key export trading partners are the United States, the United Arab Emirates, China and the United Kingdom.

The US State Department has indicated that there are problems with Indian border security. India is also the home of several domestic and foreign terrorist entities.

16. Iran.

Iran is a producer of demantoid and turquoise. In recent years, however, the Iranian government has admitted that its gemstone mining industry has been neglected in favor of other, more profitable industry such as oil production.

Iran’s economy is regarded as being oil-centric and other industries are thought to be less profitable and receive less state support than oil and related industries. Oil products account for 80% of Iran’s exports and gemstones are not a major export

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288 OTTO, supra note 183 at 32.
290 Id.
291 Id.
293 Id.
295 Id.
product.\textsuperscript{297} Iran’s primary export trading partners are Japan, China, Turkey, Italy, South Korea and the Netherlands.\textsuperscript{298}

The US State Department has classified Iran as being a state sponsor of terrorism.\textsuperscript{299} The FATF has declared that Iran is not in compliance with global standards for anti-money laundering and counter-terrorism laws,\textsuperscript{300} although it recently announced that it has commenced a dialogue with Iran regarding these issues.\textsuperscript{301}

17. Kenya

Kenya produces tsavorite, ruby, tourmaline, pink sapphire, sapphire, green sapphire and star sapphire.\textsuperscript{302} In 2006, the International Colored Gemstone Association reported that Kenyan mining was notably free of illegal mining operations and was relatively secure.\textsuperscript{303} Mining operations vary in size and type throughout the Kenyan gemstone mining industry.\textsuperscript{304}

A combination of adverse weather conditions and governmental corruption has hampered the Kenyan economy, although serious efforts to reform its government have resulted in the reintroduction of some foreign investment in the country.\textsuperscript{305} Gemstones are not among Kenya’s top export products.\textsuperscript{306} Kenya’s primary export trading partners

\begin{footnotesize}
\begin{enumerate}
\item[297] Id.
\item[298] Id.
\item[300] FATF-E-NEWS DEC. 2007, FATF-GAFL, available at \url{http://www.fatf-gafi.org/pages/0.3417.en_32250379_32237245_1_1_1_1_1_1_1.00.html} (last visited May 8, 2008).
\item[301] FATF-E-NEWS MAR. 2008, FATF-GAFL, available at \url{http://www.fatf-gafi.org/pages/0.3417.en_32250379_32237245_1_1_1_1_1_1.00.html} (last visited May 8, 2008).
\item[303] Id.
\item[304] Id.
\item[306] Id.
\end{enumerate}
\end{footnotesize}
are Uganda, the United Kingdom, the United States, the Netherlands, Tanzania and Pakistan.  

The US State Department has identified Kenya’s borders as “porous” and able to be infiltrated by smugglers as well as terrorists.  

18. Laos

Laos produces sapphire, yellow, green and black star sapphire and black and red spinel.  

Laos is a Kimberley Process participant. Reports from the International Colored Gemstone Association suggest that the gemstone mining industry in Laos has shifted away from mechanized practices, although the IMF has documented a steady trend in foreign investment interest for Lao mining operations.

Laos is a communist country that has begun to institute market reforms and is now involved in the international trading market. Although still dependent on agricultural products and regarded as a developing nation, it is the expectation of the CIA, the UK Foreign Office, and the IMF that mining of all types, including gemstone mining, will bring much needed foreign investment to Laos in the future.  

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307 Id.
312 See LAO PEOPLE’S DEMOCRATIC REPUBLIC: SELECTED ISSUES AND STATISTICAL APPENDIX, IMF REPORT No. 07/359 (Nov. 2007).
mining’s only contribution to Laos’ chief export products is gold. Laos’ primary export trading partners are Thailand, Vietnam and China.\(^{315}\)

The US State Department has indicated that border security is a particularly recurrent and pressing problem in Laos, and that the Lao banking laws and rules make the financial sector difficult to police.\(^{316}\)

19. Madagascar

Madagascar is a producer of alexandrite, aquamarine, chrysoberyl, emerald, garnet, morganite, quartz, ruby, sapphire, spinel, topaz, tourmaline, and zircon.\(^{317}\)

According to World Bank estimates, illegal gemstone trade amounts to between $200 million to $500 million annually.\(^{318}\) Although the World Bank and the government of Madagascar have established a working relationship to combat illegal gemstone mining and trading on a legal and practical level, the issue of illegality in the gemstone mining and trading industry in Madagascar persists.\(^{319}\) Another issue that faces the legitimate mining market in Madagascar is its system of sales, which typically involves a series of currency-based transactions with persons who are often unknown to the mining company, meaning that their intentions are unknown as well.\(^{320}\)


\(^{319}\) Id.

\(^{320}\) Id.; see also Chris Spence, The hidden cost of a precious stone, INTERNATIONAL HERALD TRIBUNE, Dec. 26, 2007.
Formerly adherent to socialist-based economic policies, Madagascar has been actively involved in privatizing and opening its economy and markets for over a decade.\textsuperscript{321} The economy of Madagascar is currently based predominantly in agriculture, and the nation faces issues in diversifying its economic base, as well as ridding itself of corruption in its economic structure.\textsuperscript{322} Although it is home to a plethora of gemstones, gems are not among Madagascar’s chief export products.\textsuperscript{323} Its primary export trading partners are France, the United States, Germany, Italy and the United Kingdom.\textsuperscript{324}

The US State Department has identified Madagascar’s borders as an issue because they are all maritime and insufficiently monitored.\textsuperscript{325} USAID acknowledges that illegal gemstone trading occurs in Madagascar despite attempts by the government to curtail it.\textsuperscript{326}

20. \textit{Malawi.}

Malawi produces rubies, sapphire, padparadscha sapphire, fancy sapphire, beryl, aquamarine, garnet, quartz and amethyst.\textsuperscript{327} With a few exceptions, notably for the mining of the rare and quite valuable padparadscha sapphire, the mining industry in Malawi is artisanal.\textsuperscript{328}

\begin{flushleft}
\textsuperscript{322} Id.
\textsuperscript{323} Id.
\textsuperscript{324} Id.
\textsuperscript{326} MADAGASCAR, FY2006 CONGRESSIONAL BUDGET JUSTIFICATION, USAID 2-3 (2006).
\textsuperscript{327} MALAWI, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 35 (Spring 2006).
\textsuperscript{328} Id.
\end{flushleft}
Malawi is a poor nation with an economy that is tied to agriculture – especially tobacco – and international aid for survival. Its current government is attempting to correct problems with corruption in the economy while also expanding the Malawian economy and educating members of its potential workforce. The bulk of Malawi’s export products are agricultural and do not include gemstones. Its primary export trading partners are South Africa, Germany, Egypt, the United States, Zimbabwe, Russia and the Netherlands.

21. **Mexico.**

Mexico is a producer of garnet, fire opal, amber, moonstone and demantoid. Much of Mexico’s valuable amber is located in the State of Chiapas, which has experienced violence between rebel groups and Mexican government forces in the past. Mexico must grant mining concessions in order for legitimate gemstone mining to occur, although no additional royalties are assessed.

Mexico is a developed economy, which is also faced with issues involving public finance reform and management. Gemstones are not among Mexico’s top export

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330 Id.
331 Id.
332 Id.
335 OTTO, supra note 183 at 139.
products. The chief export trading partners are the United States, Canada and Spain. The EU generally is also an important trading partner.

The US State Department has indicated that border security is a particular concern for Mexico, especially in relation to illegal smuggling of goods and people to the United States. Additionally, the US State Department has identified port security as another area of concern for Mexico. Under Mexican law, there is no specific crime of terrorist financing. Mexico is a member of the FATF.

22. Mozambique.

Mozambique produces aquamarine, tourmaline, garnet, quartz, amethyst and ruby. The World Bank has been working with the government of Mozambique in order to further its capabilities to viably produce gemstones. Recently, Mozambique was discovered to have a type of tourmaline that is similar to the Paraiba tourmaline mined exclusively in Brazil; this type of tourmaline is prized in the gemstone market. Mining of this tourmaline in Mozambique is currently being done through artisanal practices, although a mining corporation has the rights to mine this tourmaline and has expressed its

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337 Id.
338 Id.
341 Id.
343 See FATF Members and Observers, FATF-GAFI, available at http://www.fatf-gafi.org/document/52/0,3343,en_32250379_32237295_34027188_1_1_1_1,00.html (last visited May 8, 2008).
345 Id.
346 Brendan M. Laurs et al., Copper-Bearing (Paraiba-Type) Tourmaline from Mozambique, GEMS & GEMOLOGY 4 – 30 (Spring, 2008).
intent to import sophisticated machinery to enhance mining operations in 2008. The Mozambican government places a 3 – 8% tax on the production of all gems that are not diamonds. 

The Mozambican economy is emerging from war and mismanagement that has plagued it since its independence was recognized in 1975. Mozambique is heavily dependent on foreign aid. Gemstones are not among Mozambique’s current top export products. Mozambique’s primary export trading partners are the Netherlands, South Africa and Zimbabwe.

23. Myanmar/Burma

Myanmar is a producer of peridot, sapphire, fancy sapphires, zircon, aquamarine, tourmaline, red spinel and jade/jadite. It is reported that Myanmar produces other “rare” gems and sends them to Thailand under methods of questionable legality. Mining operations in Myanmar are generally not as sophisticated as possible due to the terrain in which its gemstones are located. It is reported that Burmese rubies, historically prized for their color properties, were used to finance conflicts in the 1990s. The Burmese government imposes royalties on certain products, gemstones being among the highest taxed.

\[^{347}\text{Id.}\]
\[^{348}\text{Id.}\]
\[^{349}\text{Id.}\]
\[^{350}\text{Id.}\]
\[^{351}\text{Id.}\]
\[^{352}\text{Id.}\]
\[^{353}\text{Id.}\]
\[^{354}\text{Id.}\]
\[^{355}\text{Id.}\]
\[^{356}\text{Id.}\]
\[^{357}\text{Id.}\]

\[^{347}\text{Id.}\]
\[^{348}\text{Id.}\]
\[^{349}\text{Id.}\]
\[^{350}\text{Id.}\]
\[^{351}\text{Id.}\]
\[^{352}\text{Id.}\]
\[^{353}\text{Id.}\]
\[^{354}\text{Id.}\]
\[^{355}\text{Id.}\]
\[^{356}\text{Id.}\]
\[^{357}\text{Id.}\]
The Burmese economy is weak and suffers from the politics surrounding its ruling military group domestically and internationally.\footnote{BURMA, CIA WORLD FACTBOOK 2008, available at https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html (last visited May 8, 2008).} Mining is one of the industries regarded as being self-sustaining in Burma, although economic sanctions against, among other things, Burmese gemstones and jewelry have been imposed by the United States\footnote{See Bush freezes assets of state-owned Myanmar companies, INTERNATIONAL HERALD TRIBUNE, May 2, 2008. Because the legitimate gem industry is owned by the government of Myanmar, this asset freeze affects legitimate trade in gems from Burma. Id. For a discussion of attempts at further sanctions, see Thomas Fuller, Boycott clouds gem show in Myanmar, INTERNATIONAL HERALD TRIBUNE, Nov. 14, 2007.} and the European Union\footnote{See EU ratchets up Burmese sanctions, BBC NEWS, Nov. 19, 2007.} in the wake of the Burmese crackdown on pro-democracy protesters in 2007.\footnote{See supra notes 366 – 7.} According to the CIA, reliable data on the Burmese economy is unavailable due to the prevalence of illicit trade occurring in and around Burma’s border areas.\footnote{BURMA, CIA WORLD FACTBOOK 2008, available at https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html (last visited May 8, 2008).} Gems from Burma are believed to be smuggled to Thailand, China and Bangladesh.\footnote{Id.} Gemstones constitute one of Burma’s key legitimate export products as well.\footnote{Id.} Burma’s chief export trading partners are Thailand, India, China and Japan.\footnote{Id.}

According to the US State Department, the governing regime in Burma has enacted extremely broad anti-terror legislation, under which anyone who questions the regime can be deemed a terrorist and charged accordingly.\footnote{BURMA, COUNTRY REPORTS: EAST ASIA AND PACIFIC OVERVIEW, COUNTRY REPORTS ON TERRORISM 2007, UNITED STATES DEPARTMENT OF STATE, available at http://www.state.gov/s/ct/rls/crt/2007/103706.htm (last visited May 6, 2008).} The illicit cross-border trade of gemstones such as jade, sapphires and rubies from Burma to Thailand is an established method of smuggling Burmese gemstones to the outside market in...
contravention of Burmese claims to control over the gem market.  

As of 2005, the FATF removed its counter-measures against Myanmar but declined to de-list it as a state that is non-compliant with global anti-money laundering and counter-terror financing law requirements.


Namibia produces tourmaline, garnet, topaz, aquamarine, morganite, agate and chaledony. Namibia also produces diamonds and is a Kimberley Process participant. Namibian mining operations are typically artisanal, thus making it difficult for the gemstone industry to document Namibia’s exact gemstone production rates.

Although there is a private right of ownership for mining companies operating in Namibia, the state regards all gemstones within its borders as resources of the state.

The Namibian government imposes a royalty fee of 10% of the market value on uncut gemstones mined in Namibia.

Namibia’s economy is centered on mining per se, although much of this mining involves non-gem mining. Although several mined products—including diamonds—are

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367 See Kate McGeown, Illicit trade on the Thai-Burma border, BBC NEWS, Mar. 8, 2007.
368 FATF E-NEWS DEC. 2007, available at http://www.fatf-gafi.org/pages/0.3417.en_32250379_32237245_1_1_1_1_1_00.html (last visited May 8, 2008).
372 Id.
373 OTTO, supra note 183 at 11.
among Namibia’s key export products, gemstones currently are not.\textsuperscript{375} Namibia’s primary export trading partners are South Africa and the United States.\textsuperscript{376}

25. \textit{Nepal.}

Nepal is a producer of aquamarine, tourmaline, ruby and sapphire.\textsuperscript{377} Nepal is an extremely poor country and its economy is heavily dependent on agriculture.\textsuperscript{378} There is an issue with economic data available regarding Nepal, as an illicit trading system exists on the Indian border.\textsuperscript{379} Nepal’s top export products do not include gemstones.\textsuperscript{380} The key Nepalese export trading partners are India, the United States and Germany.\textsuperscript{381}

Several domestic terrorist groups have become visible in Nepal, and the US State Department has also indicated that border security is an area of concern.\textsuperscript{382}

26. \textit{Nigeria.}

Nigeria produces aquamarine, emerald, morganite, garnet, amethyst, citrine, sapphire, kunzite, tourmaline, zircon and topaz.\textsuperscript{383} The Nigerian government and the World Bank have created a relationship to modernize Nigerian mining operations and mining investment laws.\textsuperscript{384} The Nigerian gemstone industry is characterized by a lack of

\textsuperscript{375} \textit{Id.}
\textsuperscript{376} \textit{Id.}
\textsuperscript{377} See \textit{MAJOR WORLD GEM PRODUCING REGIONS MAP, GEMOLOGICAL INSTITUTE OF AMERICA} (2000).
\textsuperscript{379} \textit{Id.}
\textsuperscript{380} \textit{Id.}
\textsuperscript{381} \textit{Id.}
\textsuperscript{383} \textit{NIGERIA, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION} 40 – 3 (Spring 2006).
\textsuperscript{384} \textit{Id.}
established middle-men purchasers, resulting in an unpredictable flow of Nigerian gemstones throughout the world.\textsuperscript{385}

The Nigerian economy is largely dependent on its oil and oil refining sectors, as it has experienced problems with sustaining sufficient agricultural endeavors to meet the needs of its domestic consumers and thus does not export agricultural products.\textsuperscript{386} Issues of corruption and infrastructural inadequacies are a retardant to many possible economic opportunities for Nigeria.\textsuperscript{387} Gemstones do not rank among the country’s key export products, 95\% of which relate directly to oil.\textsuperscript{388} Nigeria’s chief export trading partners are the United States, Spain, Brazil and France.\textsuperscript{389}

Nigeria is generally plagued by security issues, with armed militias controlling significant portions of the country, especially in locations which are important to other commodities, such as oil production.\textsuperscript{390} FATF counter-measures against Nigeria were removed in 2005, however the FATF has so far declined to de-list Nigeria altogether.\textsuperscript{391}

27. \textit{Pakistan}

Pakistan produces peridot, beryl, kunzite, aquamarine, emerald, topaz, garnets, quartz, ruby and sapphire.\textsuperscript{392} The majority of Pakistani mining operations are either

\begin{footnotesize}
\begin{enumerate}
\item Id.
\item Id.
\item Id.
\item Id.
\item 2004-5 NCCTS Report, FATF-GAFI.
\item \textsc{Pakistan, The ICA 2006 World Colored Gemstones Mining Report, InColor, International Colored Gemstone Association 45} (Spring 2006).
\end{enumerate}
\end{footnotesize}
artisanal or conducted with very low-technology mechanisms. USAID is actively supporting the development of the gemstone and jewelry sector in Pakistan.

Pakistan’s economy is largely under-developed, although there have been recent attempts to privatize additional sectors of the Pakistani economy. The economy has been compromised by the State of Emergency which was implemented in Pakistan in late 2007. Gemstones are not among Pakistan’s top export products. Pakistan’s chief export trading partners are the United States, the United Arab Emirates, Afghanistan, China and the United Kingdom.

Several terrorist groups are known to operate in Pakistan, including in the Kashmir area that is home to some of Pakistan’s most valuable gemstone source sites. Additionally, the US State Department has indicated that border security is an issue in Pakistan and has identified the Afghan-Pakistan border as a terrorist safe haven. The FATF has identified Pakistan as having problems in the area of its anti-money laundering and counter-terror financing laws, although it appears that Pakistan is taking measures to update these laws.

28. Peru

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393 Id.
394 See USAID to lend helping hand to Pakistan’s gem sector, InCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 44 (Spring 2007).
396 Id.
397 Id.
398 Id.
399 Id.
400 Id.
401 Id.
Peru is a producer of several shades of opal. The Peruvian government imposes a sliding scale of ad valorem taxes on gemstones against concession holders; these taxes will be lowered if there are demonstrable benefits to Peru based on the mining activities at issue.

Peru has seen the rebirth of the Shining Path, a terrorist organization that had previously plagued Peru in the 1980s and 1990s. Additionally, the US State Department has indicated that Peru suffered from serious issues involving border security and narco-trafficking.

Peru’s economy is heavily dependent on mining a variety of minerals, although gemstones are not one of Peru’s chief export products. Peru’s primary export trading partners are the United States, China, Switzerland, Canada, Chile and Japan, as well as the EU generally.

29. **Russian Federation.**

The Russian Federation produces malachite, emerald, alexandrite, amber, jade, demantoid, tourmaline, amethyst and lapis. The Russian Federation is also a Kimberley

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403 **PERU, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 45** (Spring 2006).  
404 **OTTO, supra** note 183 at 141.  
406 **Id.**  
407 **Id.**  
409 **Id.**  
Process participant. Russia applies a heavily fluctuating taxation scheme on gemstones and minerals.

Since the collapse of the Soviet Union and its emergence as the governmental successor, the Russian Federation’s economy has grown dramatically in some sectors, although it is still regarded as weak in others. Russia is home to the production of many important and valuable gems, however gemstones are not among its top export products. Russia’s primary export trading partners are the Netherlands, Italy, Germany, China, the Ukraine, Turkey and Switzerland.

Although Russia has comprehensive anti-terrorism laws, it has been involved in a protracted fight with Chechynan rebel groups for several years. Russia is a member of the FATF.

30. Rwanda.

Rwanda is a producer of sapphires. In the wake of the genocide in Rwanda, its economy was largely ruined. Currently, the bulk of the Rwandan economy depends on agriculture; the Rwandan government is taking measures to reorient its economy for the

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412 OTTO, supra note 183 at 128.
414 Id.
415 Id.
418 RWANDA, See MAJOR WORLD GEM PRODUCING REGIONS MAP, GEMOLOGICAL INSTITUTE OF AMERICA (2000).
future.\textsuperscript{420} Rwanda’s top export products do not include sapphires.\textsuperscript{421} Its primary export trading partners are China, Germany and the United States.\textsuperscript{422}

Rwanda has taken steps to increase its border security in order to combat the influx of terrorists and refugees from continued fighting in the DRC.\textsuperscript{423}

31. \textit{Somalia}.

Somalia is a producer of amethyst, aquamarine, emerald, garnet, opal, ruby and sapphire.\textsuperscript{424} The majority of the mining activities conducted in Somalia are artisanal.\textsuperscript{425} The lack of a functioning government in Somalia has made it difficult to learn the exact production figures for Somali gemstones, and it is impossible to determine whether these gemstones are the subject of illegal trading.\textsuperscript{426}

Data on the current state of the Somali economy is difficult to find or rely on because of the current lack of a functioning Somali government.\textsuperscript{427} The CIA reports, however, that the Somali economy has withstood the political unrest that has gripped the country and that agriculture, small industry, and even some service sectors are functioning well.\textsuperscript{428} According to information from the CIA, gemstones are not among Somali’s chief export products, although this is impossible to know for certain.\textsuperscript{429}

\begin{thebibliography}{99}
\addcontentsline{toc}{section}{References}
\bibitem{420} \textit{Id.}
\bibitem{421} \textit{Id.}
\bibitem{422} \textit{Id.}
\bibitem{423} \textbf{RWANDA, COUNTRY REPORTS: AFRICA OVERVIEW, COUNTRY REPORTS ON TERRORISM 2007, UNITED STATES DEPARTMENT OF STATE, available at \url{http://www.state.gov/s/ct/rls/crt/2007/103705.htm} (last visited May 6, 2008).}
\bibitem{424} \textbf{SOMALIA, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 24 (Spring 2006).}
\bibitem{425} \textit{Id.}
\bibitem{426} \textit{Id.}
\bibitem{428} \textit{Id.}
\bibitem{429} \textit{Id.}
\end{thebibliography}
Somalia’s key export trading partners are said to be the United Arab Emirates, Yemen and Oman.\(^{430}\)

Due to the ongoing contest for control of Somalia, which has effectively left the state without a formal government, Somalia has been identified as being a prime location for terrorists and associated contraband.\(^ {431}\) The US State Department has identified Somalia as a terrorist safe haven.\(^ {432}\)

### 32. South Africa.

South Africa produces emeralds.\(^ {433}\) As a major producer of diamonds, South Africa is a Kimberley Process participant.\(^ {434}\) South Africa’s gemstone royalty assessment is made on a sliding scale system, which depends on the damage the mining involved did to the country’s resources, balanced against the benefits brought to the area by mining.\(^ {435}\)

The South African economy has experienced sustained growth across a variety of sectors, especially service sectors.\(^ {436}\) However, issues such as infrastructure replacement and workforce education pose a continued problem for the advancement of the South African economy.\(^ {437}\) Mining of a variety of products is one of the key export products in

\(^{430}\) Id.


\(^{435}\) Otto, supra note 183 at 16-7.


\(^{437}\) Id.
the South African economy. South Africa’s primary export trading partners are Japan, the United States, the United Kingdom, Germany, the Netherlands and China.

The US State Department has indicated that border security and illegal documents – including those needed for immigration purposes – are issues that plague South Africa. South Africa is a member of the FATF.

33. Sri Lanka

Sri Lanka is a producer of alexandrite, cat’s eye, amethyst, aquamarine, beryl, citrine, garnet, moonstone, ruby, star ruby, sapphire, fancy sapphire, star sapphire, spinel, tourmaline, topaz and zircon. Sri Lanka is a Kimberley Process participant. Under Sri Lankan law, all mineral resources – including gemstones – belong to the state. Thus, in order to mine legally in Sri Lanka, a license must first be obtained from the government. In the late 1990s, the Sri Lankan government took steps to increase trade in gemstones and gold through a variety of tax incentives. The Sri Lankan gem

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438 Id.  
439 Id.  
445 Id.  
industry has mounted a steady campaign to attract consumers since 2003, when tensions between the government and the LTTE began to ease.\textsuperscript{447}

The Sri Lankan economy was devastated by the 2004 tsunami and is currently in the process of recovering, as reconstruction has diverted assets away from areas of the economy which were traditionally funded by the Sri Lankan government at the same time that these areas of the economy were damaged by the tsunami itself.\textsuperscript{448} Rubies and emeralds are among Sri Lanka’s top export products.\textsuperscript{449} Sri Lanka’s chief export trading partners are the United States, the United Kingdom, India, Belgium and Germany.\textsuperscript{450}

Sri Lanka is involved in a decades-long fight with the Liberation Tigers of Tamil Eelam (“LTTE”), a domestic separatist group.\textsuperscript{451} A ceasefire between the Sri Lankan government and the LTTE was recently terminated by the Sri Lankan government.\textsuperscript{452} It is reported that the LTTE receives much of its funding from overseas sources and crime committed within Sri Lanka.\textsuperscript{453} The US State Department has indicated that Sri Lanka also faces a problem with securing its maritime borders.\textsuperscript{454} In response to the threats posed by the LTTE, Sri Lanka has enacted anti-money laundering and counter-terror financing laws that appear to be comprehensive and yet are plagued with issues in application.\textsuperscript{455} The gemstone industry is an example of these issues, as these laws appear

\begin{itemize}
\item \textsuperscript{449} Id.
\item \textsuperscript{450} Id.
\item \textsuperscript{452} Id.
\item \textsuperscript{453} Id.
\item \textsuperscript{454} Id.
\item \textsuperscript{455} SRI LANKA: REPORT ON THE OBSERVANCE OF STANDARDS AND CODES FOR ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM AND MUTUAL EVALUATION REPORT IN ANTI-MONEY
to apply to the gemstone industry in Sri Lanka and yet are rarely enforced. There is evidence to suggest that a good percentage of the Sri Lankan gemstone industry covered by such laws is unaware that they are in fact covered. Additionally, these laws only apply to “dealers in precious metals and dealers in precious and semi-precious stones, when they engage in cash transactions with a customer equal to or above the prescribed threshold (500,000 rupees).” Thus, these laws are inapplicable to mines, persons who are not official “dealers,” and structured small transactions to avoid the triggering amount.

34. Tajikistan.

Tajikistan is a producer of rubies, tourmaline and lapis. Tajikistan’s mining industry faces many of the same export bars as found in Afghanistan and also is reported to send its gemstones to Pakistan through illegal means.

The economy of Tajikistan is precariously balanced between having access to a variety of natural resources, including minerals and water, and being straddled with economic corruption issues, political tensions and a large amount of outstanding debt. Gemstones do not comprise a chief portion of Tajik export products. Tajikistan’s

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456 See id.
457 See id.
458 Id. 112.
459 Id.
461 Id.
463 Id.
primary export trading partners are the Netherlands, Turkey, Iran, Uzbekistan and Russia.\textsuperscript{464}

The US State Department has indicated that border security is a serious issue facing Tajikistan, especially in light of its geographic proximity to Afghanistan and Pakistan.\textsuperscript{465}

35. \textit{Tanzania}.

Tanzania is the only producer of tanzanite in the world, as it is also the only known location for tanzanite.\textsuperscript{466} Tanzania also produces rubies, sapphires, alexandrite, aquamarine, chrysoberyl, emerald, garnet, tsavorite, spinel, topaz and tourmaline.\textsuperscript{467} Tanzania is also a Kimberley Process participant.\textsuperscript{468} Much mining in Tanzania is either small-scale or large-scale.\textsuperscript{469} There have been increased efforts to create a relationship between Tanzanian miners and wholesalers in recent years.\textsuperscript{470} Allegations of a connection between terror funding and tanzanite resulted in a temporary boycott of tanzanite by US wholesalers and jewelers.\textsuperscript{471} Under Tanzanian law, the government is owed a royalty of

\textsuperscript{464} Id.  
\textsuperscript{466} \textit{Tanzania, The ICA 2006 World Colored Gemstones Mining Report, InColor, International Colored Gemstone Association 50 – 1 (Spring 2006).}  
\textsuperscript{467} Id.  
\textsuperscript{469} \textit{Tanzania, The ICA 2006 World Colored Gemstones Mining Report, InColor, International Colored Gemstone Association 50 – 1 (Spring 2006).}  
\textsuperscript{470} Id.  

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approximately 3% for uncut gemstones; there is no royalty assessed on cut and polished gemstones.\textsuperscript{472} The majority of gemstones mined in Tanzania are exported uncut.\textsuperscript{473}

Tanzania is an extremely poor country with a largely agrarian based economy.\textsuperscript{474} While the gemstones produced in Tanzania are prized in the gemstone market, they are not among Tanzania’s top export products.\textsuperscript{475} It is important to note, however, that tanzanite mining as an industry has increased sharply.\textsuperscript{476} Tanzania’s chief export trading partners are China, India, the Netherlands, Japan, the United Arab Emirates and Germany.\textsuperscript{477}

Tanzania is working with the outside community to develop measures which strengthen its border security and counter-terrorism financing laws.\textsuperscript{478}

36. \textit{Thailand.}

Thailand is a producer of ruby, sapphire and black spinel,\textsuperscript{479} and Thailand is a Kimberley Process participant.\textsuperscript{480} Additionally, Thailand has become a large market for cutting and treating gems from around the world.\textsuperscript{481}

\begin{thebibliography}{9}
\bibitem{472} OTTO, \textit{supra} note 183 at 18.
\bibitem{475} Id.
\bibitem{477} Id.
\bibitem{479} THAILAND, \textit{THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION} 51 – 4 (Spring 2006).
\bibitem{480} See \textit{PARTICIPANTS WORLD MAP, KIMBERLEY PROCESS, available at} \url{http://www.kimberleyprocess.com/structure/participants_world_map_en.html} (last visited May 8, 2008).
\bibitem{481} THAILAND, \textit{THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION} 51 – 4 (Spring 2006).
\end{thebibliography}
strong and has been able to attract a good deal of foreign investment.\textsuperscript{482} Manufactured jewelry is one of Thailand’s key export products.\textsuperscript{483} Thailand’s primary export trading partners are the United States, Japan, China, Singapore, Hong Kong and Malaysia.\textsuperscript{484}

Although the Thai government took swift steps to implement counter-terrorism financing legislation, the US State Department indicates that there are issues with Thai border security, especially on the border between Thailand and Malaysia.\textsuperscript{485} Illicit cross-border trade in jade, sapphires and rubies from Burma to Thailand is also a well-established form of illegal trade occurring on Thailand’s borders.\textsuperscript{486} It is estimated that up to 13\% of the real Thai GDP is gotten through illegal transactions.\textsuperscript{487} Thailand also admits that customs evasion is an increasing crime.\textsuperscript{488} The anti-money laundering laws enacted by the Thai government are regulated very lightly in terms of the gemstone and jewelry market in Thailand, with only 200 out of the known 10,000 dealers in the country registered as required by law.\textsuperscript{489} Gemstone dealers in Thailand are not subject to counter-terrorism financing laws, and, as discussed in the section addressing Sri Lankan law, the use of the legal term “dealer” creates a vast loophole regardless of overall enforcement.\textsuperscript{490}

37. Turkey.

\textsuperscript{482} T\textsc{hailand}, \textsc{c}ia \textsc{w}orld \textsc{f}actbook 2008, \textit{available at} \url{https://www.cia.gov/library/publications/the-world-factbook/geos/th.html} (last visited May 8, 2008).
\textsuperscript{483} Id.
\textsuperscript{484} Id.
\textsuperscript{485} T\textsc{hailand}, \textsc{c}ountry \textsc{r}eports: \textsc{e}ast \textsc{a}sia \textsc{and} \textsc{p}acific \textsc{o}ver\textsc{v}iew, \textsc{c}ountry \textsc{r}eports \textsc{on} \textsc{t}errorism 2007, \textsc{u}nited \textsc{s}tates \textsc{d}epartment \textsc{of} \textsc{s}tate, \textit{available at} \url{http://www.state.gov/s/cr/rls/crt/2007/103706.htm} (last visited May 6, 2008).
\textsuperscript{486} See Kate McGeown, \textsc{i}llicit \textsc{t}rade \textsc{on} \textsc{t}he \textsc{t}hai-burma \textsc{b}order, \textsc{bbc} \textsc{n}ews, \textsc{m}ar. \textsc{8}, 2007.
\textsuperscript{487} See T\textsc{hailand}: \textsc{d}etailed \textsc{a}ssessment \textsc{r}eport \textsc{on} \textsc{a}nti-\textsc{m}oney \textsc{l}aundering \textsc{and} \textsc{c}ombating \textsc{t}he \textsc{f}inancing \textsc{of} \textsc{t}errorism, \textsc{i}mf \textsc{c}ountry \textsc{r}eport \textsc{no.} 07/376 (Dec. 2007).
\textsuperscript{488} Id.
\textsuperscript{489} Id.
\textsuperscript{490} Id.
Turkey is the only producer of zultanite in the world.\textsuperscript{491} Turkey is also a Kimberley Process participant.\textsuperscript{492} Due the location of zultanite, its current mining operator is using traditional mining practices for the area until a mechanism for bringing more sophisticated equipment and technology to the area becomes available.\textsuperscript{493}

The Turkish economy is generally regarded as strong and steadily growing as the country modernizes in many sectors.\textsuperscript{494} The potential for EU membership could mean even better growth for the Turkish economy.\textsuperscript{495} The two current weak points in the Turkish economy are its large amount of outstanding foreign debt and its vulnerability in the face of political climate change.\textsuperscript{496} Given its rarity and the difficulties attendant in mining it, it is perhaps not surprising that zultanite is not a key Turkish export product.\textsuperscript{497}

Turkey’s chief export trading partners are Germany, the United Kingdom, Italy, the United States, France and Spain.\textsuperscript{498}

Several terrorist groups, both domestic and foreign, are known to operate in Turkey.\textsuperscript{499} Turkey is a member of the FATF.\textsuperscript{500}

38. \textit{Uruguay}.

\textsuperscript{491} \textsc{Turkey}, \textsc{The ICA 2006 World Colored Gemstones Mining Report, InColor, International Colored Gemstone Association 55} (Spring 2006).
\textsuperscript{493} \textsc{Turkey, The ICA 2006 World Colored Gemstones Mining Report, InColor, International Colored Gemstone Association 55} (Spring 2006).
\textsuperscript{495} Id.
\textsuperscript{496} Id.
\textsuperscript{497} Id.
\textsuperscript{498} Id.
\textsuperscript{500} See \textsc{FATF Members and Observers, FATF-GAFI, available at http://www.fatf-gafi.org/document/52/0,3343,en_32250379_32237295_34027188_1_1_1_1_00.html} (last visited May 8, 2008).
Uruguay produces agate and amethyst. The Uruguayan economy is strong but closely tied to the economies of Argentina and Brazil, subjecting it to periodic downturns when the economic conditions in those economies sour. With assistance from the IMF, the Uruguayan economy is poised to manage its outstanding debts through its many export products. Gemstones are not key among these export products, however. Uruguay’s primary export trading partners are Brazil, Argentina, Mexico, China, Germany and Russia.

The US State Department has indicated that border security is a problem for Uruguay and has attempted to include Uruguay in the Tri-Border Area association, although Uruguay has remained unwilling to join this group. Uruguay has enacted anti-money laundering laws, although flaws in its legal system and oversight structure are said to make Uruguay an attractive spot for money laundering and terrorist financing operations. Gems and those who mine and trade them are not covered by any special legal provisions in this regard, and the Uruguayan anti-money laundering laws share the same flaws identified in the laws used by Sri Lanka and Thailand.

39. The United States.
The United States produces emeralds, fancy sapphires, amethyst, tourmaline, garnet and aquamarine. The United States is a Kimberley Process participant. In the United States, taxation schemes as applied to gemstones are determined by the states themselves. The United States is a member of the FATF. It is actively involved in fighting terrorism and human trafficking around the globe.

40. Vietnam.

Vietnam is a producer of ruby, sapphire, star ruby, spinel, tourmaline, topaz, quartz, and aquamarine. Vietnam is also a Kimberley Process participant. The mining industry in Vietnam is characterized by low-technology, artisanal techniques, and illegal mining operations are known to exist.

Nominally a communist state, Vietnam has a progressive market-based economy that has been furthered by its international participation in trade agreements and its recent accession as a member of the WTO. Vietnam’s top export products do not currently

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509 USA, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 56 (Spring 2006).
511 OTTO, supra note 183 at 148.
514 VIETNAM, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 57(Spring 2006).
516 VIETNAM, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 57(Spring 2006).
include gemstones.\textsuperscript{518} Vietnam’s chief export trading partners are the United States, Japan, Australia, China and Germany.\textsuperscript{519}

41. Zambia.

Zambia produces emeralds and tourmaline and is exploring the possibility of producing gem-quality ruby and sapphire.\textsuperscript{520} The Zambian emerald mining situation is rife with smuggling and other illegal activities that result in an unknown amount of Zambian emeralds being produced and placed on the market annually.\textsuperscript{521} Politics has also become a factor which has caused damage to legitimate emerald mining and trading in Zambia.\textsuperscript{522} Zambia uses a sliding scale for royalty assessments.\textsuperscript{523}

Zambia’s economy is heavily tied to the production of copper and cobalt.\textsuperscript{524} Other top export products do not include gemstones.\textsuperscript{525} Zambia’s primary export trading partners are Switzerland, South Africa, China, the United Kingdom and Tanzania.\textsuperscript{526} The IMF is actively involved in encouraging Zambians to move away from their reliance on copper and cobalt by pursuing other activities, such as gemstone mining.\textsuperscript{527}

The US State Department has identified border and port security as key issues in Zambia and believes that this lack of security allows for criminal conduct generally and

\textsuperscript{518} Id.
\textsuperscript{519} Id.
\textsuperscript{520} Zambia, THE ICA 2006 WORLD COLORED GEMSTONES MINING REPORT, INCOLOR, INTERNATIONAL COLORED GEMSTONE ASSOCIATION 58 (Spring 2006).
\textsuperscript{521} Id.
\textsuperscript{522} See COLORED STONE ESSENTIALS BOOK 8, PRESENTING THE BIG 3, GEMOLOGICAL INSTITUTE OF AMERICA 7 (2007).
\textsuperscript{523} Otto, supra note 183 at 21.
\textsuperscript{525} Id.
\textsuperscript{526} Id.
\textsuperscript{527} Zambia: JOINT STAFF ASSESSMENT OF THE POVERTY REDUCTION STRATEGY ARTICLE PROGRESS REPORT, IMF COUNTRY REPORT NO. 04/179 (Jun. 2004).
human trafficking in particular.\textsuperscript{528} By 2004, the IMF reported an uptick in the number of gemstone mining licenses granted by the Zambian government.\textsuperscript{529} However, the IMF has been largely unsuccessful in convincing the Zambian government to establish a viable gemstone trading market.\textsuperscript{530} In 2007, the IMF further found a series of constraints on the development of major mining operations in Zambia, the majority of which were attributed to government inaction.\textsuperscript{531}

42. Zimbabwe.

Zimbabwe is a producer of emerald, aquamarine and topaz.\textsuperscript{532} Zimbabwe is also a producer of diamonds and is a Kimberley Process participant.\textsuperscript{533} Corruption has plagued the emerald market in Zimbabwe.\textsuperscript{534} Zimbabwe frequently threatens to impose a royalty scheme in the gemstone industry but it has yet to do so.\textsuperscript{535}

The Zimbabwean economy is characterized by extremely high inflation rates and a government that has caused ties to be severed with many important trading partners.


\textsuperscript{531} \textit{Zambia: Poverty Reduction Strategy Article, IMF Country Report No. 07/276} (Aug. 2007) (The constraints cited by the IMF were: “i. Lack of access to affordable finance . . . ; ii. Lack of technical and management skills of miners . . . inadequate business and managerial skills have resulted in mismanagement of resources and poor planning; iii. Poor infrastructure in mining areas; iv. Lack of access to a formal marketing system. The absence of a transparent and formal marketing system, such as a Gemstone Exchange, has resulted in mines getting unfair deals due to under-pricing; and v. Inability to add to rough materials prior to exportation. Further processing of gemstones into cut and polished stones adds significant value to production and creates employment.”).

\textsuperscript{532} \textit{See} Major World Gem Producing Regions Map, Gemological Institute of America (2000).


\textsuperscript{534} \textit{Colored Stones Essentials Book 8, Presenting the Big 3, Gemological Institute of America} 7 (2007).

\textsuperscript{535} \textit{Otto, supra} note 183 at 24.
throughout the world.\footnote{ZIMBABWE, CIA WORLD FACTBOOK 2008, available at https://www.cia.gov/library/publications/the-world-factbook/geos/zi.html (last visited May 8, 2008).} While gold and platinum are among Zimbabwe’s top export products, gemstones are not.\footnote{Id.} Zimbabwe’s primary export trading partners are South Africa, the DRC, Botswana and the United States.\footnote{Id.}

Zimbabwe has recently taken steps to increase the penalties for those found to be involved in financing terrorism within its borders.\footnote{ZIMBABWE, COUNTRY REPORTS: AFRICA OVERVIEW, COUNTRY REPORTS ON TERRORISM 2007, UNITED STATES DEPARTMENT OF STATE, available at http://www.state.gov/s/ct/rls/crt/2007/103705.htm (last visited May 6, 2008).} Part of these measures included the creation of an oversight body to monitor the importing and exporting activities of mining entities located in Zimbabwe “to detect and prevent illegal mineral smuggling and money laundering activities.”\footnote{Id.}

\section*{IV. PROPOSAL FOR THE CREATION OF AN INTERNATIONAL GEMSTONE CERTIFICATION SYSTEM.}

This section will present the proposal for the creation of an International Gemstone Certification System and will also discuss the specific benefits and policy considerations for gemstone producing states and the global gemstone industry as a whole. The proposal subsection will set out a document similar to the Kimberley Process document. Each section will be followed by a brief explanatory note discussing the content of the section and the rationale for it.

\subsection*{A. PROPOSAL}

\subsubsection*{1. PREAMBLE}

\footnote{Id.}
Recognizing that the global gemstone industry affects the majority of states in the world through mining, gemstone cutting, polishing and finishing, gemstone trading, and gemstone purchasing.

Recognizing that gemstones have been used to finance and otherwise provide support to acts of terror and the entities that are engaged in or perpetuate terrorism.

Recognizing that gemstones have been used to finance and otherwise provide support to rebel groups which seek to undermine the peace and security of the states and citizens in which they operate and which they target.

Recognizing that gemstones may be exploited not only by terrorist and rebel groups but also by governments that seek to commit human rights violations against their own populations.

Recognizing that gemstone mining operations have been implicated as a destination point in human trafficking networks which exploit children by using their labor to mine gemstones.

Recognizing that terrorism and the support thereof, rebel groups which undermine the peace and security of any state, governments which exploit natural resources in order to perpetrate human rights violations against their own people, and all forms of human trafficking, especially trafficking in children, are threats to global peace and security, as well as decency and accepted human rights.

Noting that, through the creation of the Kimberley Process Certification Scheme (“Kimberley Process”), participants in the diamond industry recognized the dangers of “conflict diamonds” to the diamond industry, participant governments, and the world as a whole.

Recalling that international organizations such as the United Nations and regional organizations such as the OAS, ASEAN, APEC, the AU, the EU, and NATO have outlawed terrorism and human rights violations.

Recalling that international trade and economic organizations such as the World Trade Organization, the International Monetary Fund, the World Bank have and are in the process of promoting economic stability and growth through, among other industries, the gemstone mining, production and trading industries.

Recalling that international aid organizations such as USAID and the United Kingdom’s DFID work with the governments and people of gemstone producing states in order to create stable economies and lives for the citizens of these states. Further recalling that such aid organizations seek to reduce the incidents of terrorism and human trafficking through economic stability and education.

Recalling that international police and law enforcement organizations such as Interpol and FATF are actively engaged in combating terrorism and terrorist financing, money laundering, and human trafficking.
Noting that nothing in this document is intended to limit the application of its principles and regulations in the event that other forms of illicit uses of gemstones are devised in the future.

Reiterating the importance of participation by the global gemstone and jewelry market, its constituent and governing entities, individual states, international and regional organizations, international trade and economic organizations, and international aid organizations in enforcing the terms of this document and honoring the regulations and enforcement mechanisms it creates in order for this document to have meaning.

Reiterating the importance of prompt and thorough adoption of the domestic laws set forth in this document.

Reiterating that the processes and system created by this document will only be effective if taken seriously by participant states and the global gemstone and jewelry industries.

Recognizing that the international certification scheme for uncut and rough gemstones must be consistent with international law governing international law.

Acknowledging that state sovereignty, established principles of state sovereignty, mutual benefits and consensus, and the inherent right of a state to self-defense under international law shall be fully respected under the terms of this document.\(^{541}\)

Recommend the following provisions, to be collectively referred to as the “International Gemstone Certification System”:

### a. EXPLANATION

The preamble to the International Gemstone Certification System expands on the statements contained in the Kimberley Process document and also cures one of the inherent weaknesses of the Kimberley Process document – its limited scope and understanding and focus only on one illicit use of diamonds in one region of the world. The International Gemstone Certification System preamble takes a more holistic view of the nature of illicit use of gemstones and the connection between gemstone mining and human trafficking by including a variety of international and regional organizations within the scope of its cognizance. The purpose of this inclusion is to demonstrate the

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\(^{541}\) This section is primarily derived from the Kimberley Process Certification Scheme preamble. See Kimberley Process Certification Scheme Preamble.
wide-ranging impact of illicit gemstones and to encourage the participation of these
groups in the International Gemstone Certification System because of their ability to
encourage compliance with and monitor adherence to the provisions of the International
Gemstone Certification System.

2. **DEFINITIONS.**

For the purposes of the International Gemstone Certification System, the following definitions apply:

COUNTRY OF ORIGIN shall mean the country in which a gemstone or packet of
gemstones has been mined or otherwise extracted. In the event that a packet of gemstones
contains gems mined or otherwise extracted from different countries of origin, each
country of origin shall be demarcated on the requisite International Gemstone Certificate
and other customs documents as applicable.

COUNTRY OF PROVENANCE shall mean the last PARTICIPANT state from
which a shipment was exported, as stated on the requisite International Gemstone
Certificate and other applicable customs documents.\(^542\)

EXPORT shall mean the physical leaving or removing of a GEMSTONE from
any portion of a PARTICIPANT state’s territory.

EXPORTING AUTHORITY shall mean the authority(ies), bod(ies) or other
entity(ies) designated by a PARTICIPANT from whose territory a shipment of
GEMSTONES is leaving or being removed. The EXPORTING AUTHORITY shall be
authorized to validate the International Gemstone Certificate in the manner set forth in
the International Gemstone Certification System.\(^543\)

FREE TRADE ZONE shall refer to the territory of a PARTICIPANT where any
goods introduced are generally regarded, insofar as import duties and taxes are
concerned, as being outside the customs territory.\(^544\)

FUND shall mean the fund established in Section – of this document. The
activities of the FUND shall be overseen by the Chair.

GEMSTONE(S) shall mean any and all varieties of: agate, alexandrite, amber,
amethyst, ametrine, aquamarine, cat’s eye/chrysoberyl, chalcedony, citrine, emerald,
garnet, jade/jadeite, jade/nephrite, kunzite, lapis lazuli, malachite, moonstone, morganite,

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\(^542\) This section is primarily derived from the Kimberley Process definitions. *See Kimberley Process Certification Scheme Definitions.*

\(^543\) This section is primarily derived from the Kimberley Process definitions. *See Kimberley Process Certification Scheme Definitions.*

\(^544\) This section is primarily derived from the Kimberley Process definitions. *See Kimberley Process Certification Scheme Definitions.*
opal, peridot, ruby, star ruby, sapphire, star sapphire, spinel, tanzanite, tiger’s eye, topaz, tourmaline, tsavorite, turquoise, zircon, zultanite, or any other substance now certified as a gemstone by the Gemological Institute of America or certified as a gemstone by the Gemological Institute of America after the effective date of the International Gemstone Certification System.

ILLICIT GEMSTONE(S) shall mean any gemstone which is used for any illegal purpose under applicable domestic or international law at any point in its lifetime. For the purposes of the International Gemstone Certification System, the term ILLICIT GEMSTONE(S) shall include, but not be limited to, i) gems used to finance or otherwise support terrorism or terrorist activities; ii) gems used to finance or otherwise support a rebel group or other organization which seeks to undermine the peace and security of a particular state or its citizens; iii) gems used to finance or otherwise support a state government which is involved in the perpetuation of human rights violations against its citizens; and iv) gems mined by or in connection with labor which is the result of human trafficking.

IMPORT shall mean the physical entering or bringing of a GEMSTONE(S) into any portion of a PARTICIPANT’s geographical territory.

IMPORTING AUTHORITY shall mean the authority(ies), bod(ies) or other entity(ies) designated by a PARTICIPANT into whose territory a shipment of GEMSTONES is entering or being brought. The IMPORTING AUTHORITY shall be required to conduct all manner of import formalities and particularly the verification of the International Gemstone Certificate accompanying the imported GEMSTONE(S).

INTERNATIONAL GEMSTONE CERTIFICATE shall mean a document as described in Section 3 of the International Gemstone Certification System, which identifies a shipment of GEMSTONE(S) as being in compliance with the terms and requirements of the International Gemstone Certification System and which is forgery resistant.

OBSERVER shall mean a representative from civil society, a legitimate member of the global gemstone and/or jewelry industry, an international organization, a regional organization, an international trade or economic organization, or an international aid organization, or non-participating governments, invited to attend the Plenary meetings.

PACKET shall mean a grouping of one or more uncut or rough gemstones of the same or different classifications that are not individualized.

PACKET OF MIXED ORIGIN shall mean a packet of uncut or rough diamonds from two or more countries of origin, which are mixed together.
PACKET OF MIXED GEMSTONES shall mean a packet containing two or more classifications of uncut or rough gemstones, which are mixed together, regardless of their countries of origin.

SHIPMENT shall mean a PACKET or multiple packets which are physically imported or exported.547

SOURCE shall mean the mine(s) from which the GEMSTONE(S) have been mined or excavated.

UNCUT/ROUGH GEMSTONES shall refer to any type of gemstone which has not been in any way cut or faceted and which fall under the Relevant Harmonized Commodity Description and Coding System.

TRANSIT shall mean the physical passage across or through the territory of a PARTICIPANT or non-participant, with or without transshipment, warehousing, or change in the mode of transportation, when such passage is only a portion of a complete journey beginning and terminating outside the borders of the PARTICIPANT or non-participant across whose territory shipment occurs.548

a. EXPLANATION

Due to the inherent differences between gemstones and diamonds, and the product ranges covered by the International Gemstone Certification System and the Kimberley Process, the definition section of the International Gemstone Certification System is more expansive than that of the Kimberley Process document. The International Gemstone Certification System definitions are also written to be binding on the participants through the use of the term “shall.” By using separate definitions for “gemstone(s)” and “illicit gemstone(s),” the International Gemstone Certification System definitions provide a direct contrast between gemstones themselves and the ways in which they become illicit. By stating that the enumerated forms of illicit gemstones are not intended to constitute an exclusive or exhaustive definition of the term, the International Gemstone Certification System leaves itself open for adaption without amendment in the event that other

547 This section is primarily derived from the Kimberley Process definitions. See Kimberley Process Certification Scheme Definitions.
548 This section is primarily derived from the Kimberley Process definitions. See Kimberley Process Certification Scheme Definitions.
activities in the future would constitute cause gemstones to be declared illicit. As further discussed below, the “fund” defined in this section is an attempt to fix one of the weaknesses in the Kimberley Process document with respect to the handling of diamonds believed by an importing authority to be conflict diamonds.

3. **THE INTERNATIONAL GEMSTONE CERTIFICATE.**

Each Participant shall ensure that:

a) if the PARTICIPANT is the state of export, an International Gemstone Certificate accompanies each shipment of gemstones on export.

b) if the PARTICIPANT is the state of import, an International Gemstone Certificate accompanies each shipment on arrival at the appropriate import authority.

c) International Gemstone Certificates contain the following minimum content requirements:

i) Each International Gemstone Certificate shall bear the title “International Gemstone Certificate” and shall contain the following statement: “The gemstones in this shipment have been handled in accordance with the provisions of the International Gemstone Certificate Scheme for uncut and/or rough gemstones.”

ii) the country of origin for shipments of packets of gemstones with the same country of origin.

iii) the countries of origin for shipments of packets of gemstones with different countries of origin.

iv) a description of all gemstones contained in the package. For the purposes of the International Gemstone Certificate, an adequate description shall contain at least: the trade name by which the gemstone(s) are known in the gemstone industry; the chemical properties of the gemstones contained in the packet; any treatments or other processes which have been conducted on the gemstone(s) prior to export; and any noticeable identifying features of the gemstone(s), color grade and carat size.

v) each International Gemstone Certificate shall be written in both English and the language of choice of the participant issuing the International Gemstone Certificate.

vi) unique numbering with the appropriate Alpha 2 country code for the issuing participant state.

vii) each International Gemstone Certificate shall be in the form of a tamper and forgery proof document.

viii) the date of issuance of the International Gemstone Certificate by the participant state.
ix) the date of expiration for the International Gemstone Certificate.

x) identification of the exporter and importer of the gemstone(s) for which the International Gemstone Certificate is issued.

xi) the value of the uncut/rough gemstone(s) in US dollars and the date of valuation.

xii) the total number of packets in a shipment covered by the International Gemstone Certificate.

xiii) proof of validation of the International Gemstone Certificate by the Exporting Authority.

xiv) the ultimate country of destination for the gemstone(s).

Participants that issue International Gemstone Certificates shall have the discretion to impose additional requirements for their International Gemstone Certificates, however in no instance may a participant require less than the above information as part of a valid International Gemstone Certificate.

d) An Importing Authority, once it is satisfied as to the validity of the International Gemstone Certificate and its terms, shall so indicate on a separate portion of the International Gemstone Certificate. Such indication shall include a mark of authentication from the Importing Authority and the date of receipt of the International Gemstone Certificate and the gemstone(s) associated with it by the Importing Authority.

e) the Chair and other participants are notified of the specific requirements for a valid International Gemstone Certificate issued by the participant. In the event that a participant in any way alters the physical appearance or content of its valid International Gemstone Certificate, the participant shall notify the Chair and other participants as soon as practicable.

a. \textit{EXPLANATION}

The section uses the terms of the Kimberley Process Certificate requirement as a base and then expands the requirements for gemstone exporting and importing states in regards to the issuance of their International Gemstone Certificates. Unlike rough diamonds, which are subject to some fraudulent activities, uncut and rough gemstones are easily manipulated or interchanged because so many gemstones share similar colors and qualities that it is necessary to place more information on the International Gemstone
Certificate in order to ensure that the gemstones exported and imported are the gemstones they purport to be.

4. **UNDERTAKINGS IN RESPECT OF THE INTERNATIONAL TRADE IN GLOBAL GEMSTONES.**

Each participant shall:

a) require that shipments of packets containing gemstone(s) for export from or import to the participant shall be accompanied by a valid International Gemstone Certificate.\(^{549}\)

b) when a shipment of packets containing gemstone(s) is imported to the participant’s jurisdiction and territory, the participant shall ensure that it receives a valid International Gemstone Certificate, sends a prompt message of confirmation – containing such identifying features as the International Gemstone Certificate number, number of packets, gemstone types and carat weights in the shipment, and information on both the exporter and the importer – to the Export Authority which issued the International Gemstone Certificate. All International Gemstone Certificates shall be retained by the Import Authority for not less than three (3) years.\(^{550}\)

c) ensure that no shipment of uncut or rough gemstones of any kind is exported from or imported to a non-participant or areas under the control of a non-participant.\(^{551}\)

d) when the shipment’s final destination is a jurisdiction other than the participant state, ensure that the shipment of packets containing gemstones is accompanied by a valid International Gemstone Certificate. However, in this circumstance the participant shall be required to ensure that the shipment leaves its territory in the same physical state as it was received.\(^{552}\)

**a. EXPLANATION**

Again, this section builds on the terms of the Kimberley Process document and is uniquely crafted to accommodate the differences in the trade of rough diamonds and uncut or rough gemstones.

5. **INTERNAL CONTROLS.**

\(^{549}\) This section is primarily derived from the Kimberley Process definitions. See Kimberley Process Certification Scheme.

\(^{550}\) This section is primarily derived from the Kimberley Process definitions. See Kimberley Process Certification Scheme.

\(^{551}\) This section is primarily derived from the Kimberley Process definitions. See Kimberley Process Certification Scheme.

\(^{552}\) This section is primarily derived from the Kimberley Process definitions. See Kimberley Process Certification Scheme.
Each participant shall:

a) establish legal and regulatory provisions which criminalize the production, sale or transfer of illicit gemstones, as defined in this document.

b) establish legal and regulatory provisions which comport with the participant’s obligations under international treaties and agreements addressing the promulgation of anti-money laundering and counter-terrorism financing laws. These laws shall specifically be deemed applicable to all elements of the gemstone industry that are present within a participant’s jurisdiction.

c) establish human trafficking laws as required by international treaties and agreements to which the participant is a party and undertake to enforce these laws in regards to mining practices.

d) work with mining interests and, where applicable, any of the observers to the International Gemstone Certification System to devise a system of mine safety and security for the purposes of combating the mining and sale of illicit gemstones.

e) establish legal and regulatory provisions which allow for the implementation of the International Gemstone Certification System and the valid issuance of the International Gemstone Certificate. The participant shall further ensure that these laws and regulations include a provision requiring that all gemstones be imported and/or exported in tamper-resistant containers.

f) provide information relating to illicit gemstone activity occurring in its jurisdiction and any terror or terror-affiliated groups, rebel groups, or human trafficking organizations which are known to operate within its jurisdiction to the Chair and to other participants.

g) provide information regarding prosecutions and convictions of persons and organizations charged with acts involving illicit gemstones, money laundering and terror financing or support activities to the Chair and other participants unless such information would compromise the security of the participant and its citizens.

a. **EXPLANATION**

The undertakings required in this section are stronger than those required in the Kimberley Process document because they are aimed at specifically combating the ways in which a gemstone can be deemed to be illicit. The provisions requiring the implementation of anti-money laundering and counter-terrorism financing are inserted to reflect the ties between both types of illegal activities and, among other industries, the global gemstone industry. The provisions regarding mine security and safety are geared
to encourage states which need financial or technical assistance in enacting such measures to seek assistance from entities which have previously sought to assist in such areas.

6. **THE INTERNATIONAL GEMSTONE CERTIFICATION SYSTEM FUND.**

   In the event that an Exporting or Importing Authority seizes illicit gemstones or gemstones which are not accompanied by the requisite documentation, the Exporting or Importing Authority shall place these gemstones in a dedicated and secured location. If the participant state deems it necessary to retain these gemstones for investigatory or prosecutorial purposes, it may do so provided that it can assure the safety and security of the gemstones at all times.

   Should the participant not require the seized gemstones for investigatory or prosecutorial purposes, or in the event that the investigation or prosecution undertaken by the participant is completed, the participant state shall immediately send the seized gemstones to the administrative entity created in Section --- of this document. The administrative entity shall be charged with selling the seized gemstones on the legitimate market. All proceeds generated from such a sale shall be returned to the administrative entity and placed in a special fund held by the administrative entity. The purpose of this fund shall be to assist participant states in meeting their requirements under the provisions of the International Gemstone Certification System.

   All account information shall be held at the offices of the administrative entity and shall be open to inspection by any participant or observer at any reasonable time.

   **a. EXPLANATION**

   As previously discussed in Section II, one of the weaknesses of the Kimberley Process is that it leaves open the issue of how participants are to handle seized conflict diamonds. This section aims to address the structural weakness in the Kimberley Process document by providing a specific requirement for all participants to follow in regards to seized gemstones which are believed to be illicit.

   Unlike other forms of illicit goods, such as narcotics, gemstones are difficult to destroy and are benign in and of themselves. Thus, by allowing for the sale of seized gemstones and the use of their proceeds to assist participants with the fiscal burdens of
the International Gemstone Certification System, the fund provision provides a responsible way of disposing of seized gemstones.

7. **RETAINED PROVISIONS FROM THE KIMBERLEY PROCESS DOCUMENT.**

   Sections V and VI of the Kimberley Process document, addressing Co-operation and Transparency and Administrative Matters respectively, should be retained because they are equally applicable to the International Gemstone Certification System. The provisions of Annex II of the Kimberley Process document – addressing Recommendations for all varieties of participants and observers – should be retained and strengthened to include specific recommendations for the international and regional organizations that elect to become observer states. The provision of Annex III of the Kimberley Process document, relating to the retention and publication of statistics regarding trade in diamonds should be retained and adopted to trade in gemstones.

B. **SPECIFIC BENEFITS AND POLICY CONSIDERATIONS FOR THE INTERNATIONAL GEMSTONE CERTIFICATION SYSTEM PROPOSAL.**

   The most obvious benefit of the proposed International Gemstone Certification System is to bring transparency to the global gemstone market. This would, necessarily, also address and combat the issues that would cause a gemstone to be deemed illicit, thereby combating issues of international importance.

   The benefits to the global gemstone industry are perhaps equally obvious. To date, there have been limited instances of public linkages between gemstones and any form of illicit activity; this has been a lucky occurrence for the global gemstone industry. The market for certain gemstones has been rocked by investigations which revealed

553 See Kimberley Process Certification Scheme § V, VI.
554 See id. Annex II.
555 See id. Annex III.
shady trade practices by jewelers and undisclosed treatments on gemstones which altered their appearance to consumers. However, it has not been subject to the type of negative publicity which was brought to the diamond industry surrounding the issue of conflict diamonds. Allegations regarding the use of tanzanite as a terror funding mechanism were largely unheard of outside the gemstone and jewelry industry itself. And, although sanctions against the importation and purchase of Burmese gemstones have been enacted by both the United States and the European Union, these sanctions have been part of a larger package of sanctions into which the public rarely delves. However, as more and more reports of connections between gemstones and illicit activities are made in governmental and international organizations circles, it is likely only a matter of time before they become the focus of public attention. By learning from the market pressures which resulted in the diamond industry’s willingness to promulgate the Kimberley Process document and be bound by it, the global gemstone market could enact a plan such as the International Gemstone Certification System now and preempt future damage to its reputation and profits.

The International Gemstone Certification System offers valuable incentives to gemstone producing states. States such as Australia, Canada and the United States, which have developed mining infrastructures and legal systems which punish the activities which make gemstones illicit would benefit from the International Gemstone Certification System because it would be relatively easy for them to cope with its requirements, and thus to assure consumers that its products are legitimate.

556 See COLORED STONE ESSENTIALS BOOK 4, MARKET AWARENESS, GEMOLOGICAL INSTITUTE OF AMERICA 16 (2007).
Gemstone producing states which are in the process of developing economically would benefit from the International Gemstone Certification System in several ways. First, such a system would provide them with incentives to enact the appropriate legislation, thus protecting themselves and their citizens while also making it possible for them to receive outside financial and technical assistance in implementing these laws and regulations. In this context, it is important to note that the majority of gemstone producing states discussed above have at the very least issues with border security; by implementing such laws, gemstone producing states would also be able to protect themselves from some of these threats to domestic security. An additional incentive for gemstone producing states which have issues with good being traded illegally to adopt the International Gemstone Certification System is that, by increasing that amount of legitimate gemstone shipments made, the producing state is also increasing its base of taxable goods and transactions.

Second, and perhaps most importantly, adopting the International Gemstone Certification System would make these states more attractive to outside investors who are worried about investment security. Assuring potential investors that a state is a participant in the International Gemstone Certification System would signal that the state is actively working to ensure mining security and that the gemstones produced as a result of foreign investment would be marketable. Since the chief export trading partners of gemstone producing states typically are other gemstone producing states, there is an incentive for each state to adopt the terms and requirements of the International Gemstone Certification System because a state would not be able to export its gemstone
products to key exporting trading partners in the event that it was classified as a non-participant in the International Gemstone Certification System.

Third, adopting the International Gemstone Certification System would result in the availability of more international economic assistance for participants in that it would dispel any current images of corruption and also demonstrate to these organizations that the participant is dedicated to creating new and sustainable industries. As the example of the World Bank and Madagascar’s relationship regarding furthering the gemstone sector of Madagascar demonstrates, such a showing is critical.

International and regional organizations would benefit from the International Gemstone Certification System because it would further many of their own aims – such as combating terrorism and illicit trade. International trade and economic organizations would benefit from the International Gemstone Certification System because it would provide a framework within which to provide guidance and support to participants. It is likely that the International Gemstone Certification System would require a waiver from the WTO akin to the waiver granted to the Kimberley Process; however, there has been no demonstrable indication of damage to the WTO structure or international trade as a result of the Kimberley Process waiver. International police and legal entities would benefit from having another entity with which to liaise, particularly in areas that are already of concern to entities such as Interpol. And international aid organizations such as USAID would benefit from the International Gemstone Certification System in that they could better justify their gemstone industry development policies to their financial backers when able to assure them that the state that will receive assistance is an International Gemstone Certification System participant.
Certainly, there are drawbacks to the implementation of the International Gemstone Certification System, just as there are weaknesses in the Kimberley Process. The primary weakness of either system is the necessary dependency on state actors to follow the rules of the system and implement the laws and regulations required of them. However, the same weakness can be said of international law generally and yet this has not stopped the growth of international law as a field to which society turns to address the most devastating issues facing the international community.

V. CONCLUSION.

There are many facets to the future of the global gemstone industry beyond issues of discovery, supply exhaustion and market value. This article has discussed the serious and less than savory issues facing the global gemstone industry and the states that produce gemstones. Key among these issues are links to financing and supporting terrorism and terrorist groups, financing and supporting rebel groups and groups which seek to undermine the peace and security of a particular state and its citizens, financing and supporting governments which engage in human rights violations against their own citizens, and human trafficking to provide child labor at mines. This article argues that the global gemstone industry and the states which are connected to it through production, trade and consumption should join together with a variety of international and regional organizations to create a system similar to the Kimberley Process used to combat conflict diamonds. To further this argument, the article presents a proposal for the International Gemstone Certification System, which would operate in a manner similar to the Kimberley Process and also benefit from the strengths and weaknesses of the Kimberley
Process. In order to underscore the importance of creating such a system, this article also discusses the specific benefits and policy ramifications of the International Gemstone Certification System on a variety of interested actors. The ultimate purpose of this article is to propose a way in which the global gemstone industry can go about faceting its own future before it is forced to respond to the specter of illicit activities within its structure.